Calendar No. 665

100TH CONGRESS *2d Session*	SENATE	REPORT 100-342

DEPARTMENT OF VETERANS AFFAIRS ACT OF 1988

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 533

TO ESTABLISH THE VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT

TOGETHER WITH

ADDITIONAL VIEWS

MAY 12 (legislative day, MAY 9), 1988.—Ordered to be printed

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Mr. GLENN, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 533]

The Committee on Governmental Affairs, reports favorably S. 533, a bill to establish the Veterans Administration as an Executive Department of Veterans Affairs, and for other purposes, and recommends that the bill as amended do pass.

CONTENTS

		Page
I.	Purpose	1
II.	Background	02
III.	Legislative history	25
IV.	Additional issues	28
V.	Section-by-section analysis	36
VI.	Regulatory impact of legislation	43
VII.	Cost estimate of legislation	44
VIII.	Changes in existing law	46
IX.	Additional views of Senator John Heinz (Pennsylvania)	61

I. PURPOSE

The purpose of S. 533, the Department of Veterans Affairs Act of 1988, is to establish the Veterans Administration as a Cabinet Department, and, in doing so, to strengthen the agency's management effectiveness and internal controls. S. 533 also sets out the principal officers and principal offices of the new Department, and sets limits on the number of noncareer appointments allowable within the Department's Senior Executive Service and among the Department's Schedule C personnel. S. 533 provides greater management flexibility to the new Secretary of Veterans Affairs through authority to establish up to four Assistant Secretary positions in the Department, and to undertake necessary reorganizations within the

Central Office of the Department. Finally, S. 533 creates a National Commission on Executive Organization to make recommendations regarding the structure and management of the Federal government and the President's Cabinet.

II. Background

The Veterans Administration (VA) was created in 1930 when Congress authorized the consolidation of three veterans agencies—the Veterans Bureau, the Bureau of Pensions of the Interior Department, and the National Home for Disabled Volunteer Soldiers—into a single independent administration, with just over 30,000 full-time employees serving a population of 4.7 million veterans.

As the number of veterans grew following the World War II, and the scope of their benefits expanded with the VA health care system, passage of the GI Bill, and VA's absorption of the National Cemetery System, so did the VA workforce and budget. By 1987, the VA was the largest independent agency in government, with over 200,000 full-time and 40,000 part-time employees serving almost thirty million veterans and their dependents.

In large measure because of the impact of veterans programs on the lives of Americans, the potential value of including the VA in the President's Cabinet became a subject of congressional interest almost immediately upon its establishment as an independent agency. Over the next five decades, dozens of proposals were introduced in Congress, culminating in the introduction of parallel measures in both Houses in the 100th Congress.

In reviewing the current proposals to elevate the VA from independent agency status to the Cabinet, the Committee on Governmental Affairs considered two separate issues: (1) the criteria that should be used in evaluating proposals for the elevation or creation of any new Cabinet Department, and (2) the criteria that should be used to make decisions regarding the specific structure of a Department of Veterans Affairs. The first issue focused on whether the Veterans Administration should be elevated, while the second centered on how that elevation could be structured to ensure that, if created, a new Department of Veterans Affairs be as effective and accountable as possible. These issues were addressed in hearings held by the Committee on December 9, 1987, and March 15 and March 28, 1988.

THE CRITERIA FOR ELEVATION

In examining the mission and structure of the Veterans Administration, the Committee recognized that the VA is both large and important. The VA workforce is the third largest in government behind the Department of Defense and the Postal Service at over 200,000 full-time employees, while the federal budget for veterans programs stands at almost $30 billion. The impact of the agency's programs on the lives of America's veterans, particularly those who have service-connected disabilities, was clearly communicated in testimony by representatives of the American Legion, Amvets, Disabled American Veterans, Paralyzed Veterans of America, Veterans of Foreign Wars, and Vietnam Veterans of America.

The Committee also recognized the impact of veterans programs on the well-being of those who have served the nation during times of war and peace, as well as their dependents. The VA currently administers programs which provide compensation and pensions for nearly three million veterans, life insurance for over seven million veterans and military personnel, and home loan guarantees for almost 13 million veterans and their dependents.

In addition, the VA administers a network of 172 medical centers, 229 outpatient clinics, 117 nursing-home care units, and 16 domiciliaries, for a total of almost 90,000 patient beds. In 1987 alone, VA outpatient clinics handled a total of 20 million visits. As Va Administrator Thomas K. Turnage testified before the Committee on December 9, 1988, "These statistics shed at least some light on the great size and scope of the VA's programs and on the tremendous contribution they make, not only to the lives of our country's veterans and their families, but also to the national well-being generally." The Committee shares this assessment of the importance of these programs to America's veterans.

However, in assessing the case for elevation, the question for the Committee was not whether the VA is large, whether the Agency provides essential care to millions of American veterans, nor whether the agency's far-reaching programs in areas such as housing, education, life insurance, homelessness, AIDS, medical research, and disability affect millions of non-veteran citizens. There was no doubt on all counts.

Rather, the question for the Committee was whether the elevation of the VA to Cabinet status would best serve America's veterans, the American public, and, ultimately, the President of the United States through strengthening of the Cabinet as a policy-making mechanism. The answer involved an effort to define appropriate criteria by which the Committee could evaluate the case for elevation of the VA.

The Committee concluded that size alone could not be the sole criterion for Cabinet status. Indeed, according to figures compiled annually by the Committee on Governmental Affairs, if size were the only determinant, the National Aeronautics and Space Administration (as 22,015 employees as of January 1, 1987), the General Services Administration (21,869), the Environmental Protection Agency (13,379), the U.S. Information Agency (9,016), and the Office of Personnel Management (6,011) would have been elevated to Cabinet status ahead of the Department of Education (4,422). In addition, at least two agencies, NASA and GSA, would have been elevated to Cabinet status ahead of the Department of Energy (16,592). Thus, size alone is neither a sufficient nor necessary criterion for Cabinet status.

Given the lack of alternative criteria for elevation, the Chairman and Ranking Member of the Committee agreed to commission a study of VA elevation by the National Academy of Public Administration (NAPA), a congressionally-chartered research institution with the expertise to answer questions regarding government organization and management. In the contract agreement signed on January 4, 1988, the Committee on Governmental Affairs asked NAPA to undertake the following tasks:

1. Review and address questions regarding whether the Veterans Administration should be elevated to Cabinet status, including:

a. an assessment of the criteria which should be used in determining whether an independent agency should be elevated; and

b. an analysis of the potential impacts of elevation on the Veterans Administration, including cost, budget, size, effectiveness of service, coordination, and accountability;

2. Review and address questions regarding how to elevate the Veterans Administration to Cabinet status, including:

a. an assessment of options for the organizational structure of a Department of Veterans Affairs;

b. an analysis of the proper balance of political and career executives in a Department of Veterans Affairs;

c. a review of the principles for the management of large-scale organizations, including an assessment of possible improvements in the way a Department of Veterans Affairs would operate;

d. an examination of possible cost-control mechanisms for ensuring that a Department of Veterans Affairs would not entail significant added administrative costs;

e. a review of the pros and cons of a biennial budget for a Department of Veterans Affairs;

f. an analysis of possible changes which might give a Department of Veterans Affairs added flexibilities to achieve management and service effectiveness; and

g. an examination of possible methods for ensuring a smooth transition from current independent agency status to Cabinet status.

Working through a seven-member Panel of Academy members and outside experts which included a former Cabinet member, a former national commander of the Disabled American Veterans, and former officials of the two most recently created Cabinet Departments (Education and Energy), NAPA recommended 14 criteria for evaluating whether the VA, or other government organization, should function as a Cabinet department. The NAPA Panel presented its criteria in a report to the Committee on March 14, 1988, and testified before the Committee on March 15, 1988.

These 14 criteria fell into five distinct categories: (1) establishing a national priority for the agency's programs, (2) improving program effectiveness, (3) improving program efficiency, (4) improving federal policy integration, and (5) improving accountability to elected public officials. However, given the Committee's longstanding concern with ways to improve the management of government organizations and the already high priority which exists for veterans programs, it gave the greatest weight to criteria dealing with program effectiveness, program efficiency, federal policy integration, and improving accountability.

Indeed, the Committee concluded that, to the extent that S. 533 could be amended to include significant management improvements and strengthened leadership within VA, the case for elevation to Cabinet status became much stronger. Thus, in reviewing the NAPA report and other testimony, the Committee paid particu-

lar attention to ways in which an elevation bill could be drafted to improve the management and operation of a Department of Veterans Affairs.

The 14 criteria, along with the NAPA Panel's assessment of whether proposals for the elevation of VA met each criterion, are presented below:

FIVE CRITERIA DEALING WITH ESTABLISHING A NATIONAL PRIORITY FOR THE AGENCY'S PROGRAMS

1. Does the agency or set of programs serve a broad national goal or purpose not exclusively identified with a single class, occupation, discipline, region or sector of society?

> [T]he established national priority for veterans affairs has been extremely strong and long-standing as a national goal. The Panel is not persuaded that elevation of the VA to a Cabinet Department is necessary to establish or reinforce this priority. However, it could accentuate the nation's recognition of the veterans' service and its importance to the national defense.

2. Is there evidence that there is a significant need of the veterans population that is not now adequately recognized or addressed by the Veterans Administration, the president, or the Congress which would be better assessed or met by evaluating the agency to a Cabinet department?

> Proponents of the VA's elevation to Cabinet department often cite an improved opportunity to obtain necessary resources for veteran programs. However, the Panel finds, with regard to percentage changes in budgeted resources between fiscal years 1980 and 1988, that VA outlays have been comparable to Cabinet departments and independent agencies. Over the eight-year span VA outlays increased 31 percent or $6.5 billion. * * * These budgetary comparisons suggest that elevation to a Cabinet department bears no direct or causal relationship to success in obtaining additional resources for an agency's mission.

3. Is there evidence of impending changes in the needs of, or the circumstances surrounding, the veterans population which would be better addressed if the VA were made a Cabinet department? Are such changes expected to continue into the future?

> "The Panel finds evidence of significant impending change in the size and composition of the veteran population. * * * Veterans over 65 will grow from 5.5 million in 1986 to 8.9 million by 2000 with likely attendant increases in the VA's medical workload. At the same time, barring major armed conflict, the total veterans population will fall from 27.7 million in 1988 to 24 million by 2000 and to about 14.4 million by 2030. The Veterans Administration has demonstrated its ability to obtain the resources necessary to meet most of the needs of the changing veterans population in the past. While a Cabinet department might improve the opportunity to obtain resources, the Panel is

not persuaded that a Cabinet department is essential to obtain necessary resources to meet expected changes in the future.

4. Would a Cabinet department increase the "visibility" and thereby substantially strengthen the active political and public support for programs assisting veterans, including the volunteer service and donated cash assistance currently being provided through veteran service organization and the non-organized citizenry?

The Panel believes that, while a Cabinet department would clearly provide some additional visibility and political support, in view of the extraordinarily broad level of public recognition and active support which are already in place, the impact would be marginal.

5. Is there evidence that becoming a Cabinet department would provide better analysis, expression and advocacy of the needs and programs which constitute the agency's responsibilities?

The present VA administrator, and his immediate predecessor, stated their strong views that access to the president would be greatly improved with cabinet status and this would make a significant difference in getting top level attention to veterans. * * * However, in the case of the VA administrator, the Panel is not aware of any major program or policy issue affecting the VA's responsibilities to veterans where the administrator does not receive full and direct consideration by the president and his senior staff when that [consideration] is needed.

TWO CRITERIA DEALING WITH IMPROVING PROGRAM EFFECTIVENESS

6. Is there evidence that elevation to a Cabinet department would improve the effectiveness of service delivery to veterans and their beneficiaries?

The Panel finds that, with regard to those direct service and financial support programs which the VA manages and supervises, the key determinants of effectiveness do not depend on an act authorizing departmental status. The Panel does find that there are a number of unusual and important restrictions in current law which probably impede management changes to improve program effectiveness.

7. Is a Cabinet department required to better coordinate or consolidate programs and functions which are now scattered throughout other agencies in the executive branch of government?

The Panel finds that, unlike the cases of transportation, Housing and Urban Development, Energy and Defense, there are very few programs and functions which directly serve or affect veterans which are not already consolidated in the VA. * * * It is the Panel's judgment that the coordination and consolidation of similar programs affecting veterans to bring them under a stronger, better integrated

framework within the Cabinet would not be significantly improved by elevating the VA to the 14th Cabinet department.

THREE CRITERIA DEALING WITH IMPROVING VETERANS PROGRAM EFFICIENCY

8. Is there evidence that a Cabinet department with its increase in the centralized political authority of the secretary's office would result in a more effective balance within the agency, between integrated central strategic planning and resource allocation, and the direct participation in management decisions by the line officers who are responsible for directing and managing service delivery? would the staff officer-line officer interaction be improved?

The Panel believes that the Office of Program Analysis and Evaluation, now located in the Office of the Associate Deputy Administrator for Management, has not had the resources or charter to be as effective as similar units in some Cabinet departments and independent agencies in analyzing and recommending important improvements in program efficiency. The resources available for studies, analyses, and evaluation in that office have fluctuated so greatly that necessary stability and continuity have been difficult to achieve. However, the Panel finds that the political status of the agency head is not the key determinant of such imbalances as may exist. The Panel notes that this important balance varies greatly between agencies which are Cabinet departments and between those which are not.

9. Is there evidence that there are significant structural, management or operational weaknesses within the VA that could be more easily corrected by elevation to a Cabinet department?

It appears from [General Accounting Office (GAO)] reports that significant weaknesses have been detected in the financial management, planning, and management information systems used to plan for and allocate resources to the medical care and related capital construction processes. The Panel defers to the GAO on the details of their findings. However, the Panel believes that such weaknesses can be addressed most forcefully through changes in the internal structure, procedures, and relationships within the agency, and that elevation to a Cabinet department has not been a powerful means in the past of correcting such deficiencies.

An organic act establishing a Cabinet department does provide the opportunity to realign critical internal management functions and strategies. However, neither bill [S. 533 as introduced and H.R. 3471 as passed by the House] before the Committee proposes to do this.

10. Is there evidence that there are external barriers and impediments to timely decision making and executive action that could be detrimental to improving the efficiency of VA programs? And

would these impediments be removed or mitigated by elevation to a Cabinet department?

> The Panel finds that the most important *external* impediments to timely decision making and executive action by the VA are those legislated "report and wait" provisions in federal law which require reports to the Veterans Affairs Committees of the Senate and the House and require elapsed time before action may be taken. * * * The Panel notes that consideration of legislation to elevate the VA to a Cabinet department provides the Congress an opportunity to review, and eliminate where appropriate, provisions * * * which seriously impede economic and efficient operations. In the Panel's view, elimination of these provisions should be considered regardless of the decision on whether to elevate the VA to a Cabinet department. The Panel notes that neither of the bills [S. 533 as introduced and H.R. 3471 as passed by the House] would remove any of these impediments.

11. Would elevation to a Cabinet department help recruit and retain better qualified leadership within the agency?

> The Panel observes that VA leadership over the years generally compares quite favorably with that of other federal independent agencies. Nevertheless, a Cabinet secretary position is customarily more attractive to senior executive talent with a broader base of experience. Since more prestige is attached to presidential appointments, this may also be true for the VA sub-cabinet line officers who have the day-to-day operational management responsibilities.

TWO CRITERIA DEALING WITH IMPROVING FEDERAL POLICY INTEGRATION

12. Is there evidence that a Cabinet department would facilitate more uniform achievement of broad, cross-cutting national policy goals such as: better integration of biomedical research; a national AIDS program; drug prevention and treatment; health care cost containment; equitable needs tests in area beyond disability compensation benefits; government-wide personnel and budgetary control; more efficient management and disposition of federal real property assets; and the comprehensive coordination of health care, income maintenance, education and training and other service delivery strategies?

> The Panel believes that co-equal status in the Cabinet with the other major departments with which the president works in developing and implementing such government-wide policies and strategies could bring the veterans programs into stronger policy alignment because of the natural pressure for equitable and uniform execution across all Cabinet departments. However, given the unique nature of the veteran population and the long-established context of the congressional prescriptions described [in the NAPA report], significant change over and above what is

now achieved by the coordinating mechanisms currently in place is not probable, even if Cabinet status were granted.

13. Would elevation to a Cabinet department for the VA weaken or strengthen the Cabinet and the Executive Office of the President as policy and management aids to the president?

The Panel believes that while the trend to increase the number of agencies included in the Cabinet does dilute its usefulness as an advisory body to the President, the addition of one additional department would not have a sufficiently negative effect to reject the proposal on that ground alone. The Panel believes the elevation of the VA considered by itself would have little, if any, effect upon the operations of the Executive Office of the President.

ONE CRITERION DEALING WITH IMPROVING ACCOUNTABILITY TO ELECTED PUBLIC OFFICIALS

14. Would the elevation to a Cabinet department have a beneficial or detrimental effect upon the oversight and accountability of the agency to the President and the Congress?

Neither of the bills under consideration [S. 533 as introduced and H.R. 3471 as passed by the House] would change the VA's inclusion in the Federal Manager's Financial Integrity Act, the Inspector General Act or other general oversight mechanisms of government; therefore, the Panel believes the impact upon accountability to the President, oversight within the executive branch, and oversight by the Congress and its committees of jurisdiction, would be negligible.

As the NAPA Panel noted, these criteria do not exhaust every possible reason for elevating an energy to Cabinet status. Indeed, in testimony on March 28, 1988, Dr. Arthur Flemming, former Secretary of Health, Education and Welfare, former member of both Hoover Commissions on Executive Organization, former Special Advisor on Aging to President Carter, and founding member of NAPA, encouraged the Committee to consider a 15th organizational criterion:

15. Would the participation of the head of the Veterans Administration in Cabinet meetings help the President to formulate policies and make program decisions related to broad national goals or purposes?

As Dr. Flemming noted in his testimony before the Committee, analysis of this 15th criterion shows that elevation would be a significant benefit for the public, veterans, and the Cabinet:

The head of the Veterans Administration, if he were at the Cabinet table, would be in a position, growing out of his operating experiences—to share valuable information and insights with the President and her or his colleagues in the Cabinet as they come to grips with issues on which which the Veterans Administration is having a major impact and to receive valuable information and insights

from departments that are involved in comparable programs.

Also, the magnitude and complexity of the operations of the Veterans Administration should result in the appointment of a person to head the department with the kind of qualifications that would make it possible for him, as an informed general adviser to the President, to make significant contributions in discussions related, for example, to the nation's budgetary and fiscal problems.

I believe, therefore, that the participation of the head of the Veterans Administration in Cabinet meetings would strengthen the advice the President would receive on policy issues and current and proposed programs, in such areas as aging, health care, and housing. It would also, in my judgment, result in a strengthening of the programs in those areas that are conducted by the Veterans Department and other departments.

THE COMMITTEE'S CRITERIA FOR ELEVATION

After reviewing the full hearing record, the Committee drew three conclusions regarding the pros and cons of elevating the VA to Cabinet status.

First, the Committee concluded that the legislation to elevate the VA must contain a management structure which is effective and accountable. The Committee felt that the structure of the Department was as important as the elevation itself, and that elevation legislation must include an internal organization commensurate with Cabinet status. As Chairman Glenn noted at the first hearing on VA elevation,

> If we are going to elevate the VA to Cabinet status we must do it right. If it is done right, the elevation of the Veterans Administration will create a department which is visible, accountable and effective. If it is done wrong, the elevation will work against the interest of the 27 million veterans who so clearly deserve an effective department.

The Committee took this responsibility to draft a detailed elevation bill seriously, and noted, for example, that at least four of NAPA's 14 criteria were conditioned on the contents of the specific legislation to elevate the Veterans Administration to Cabinet status. After reviewing S. 533 as introduced and H.R. 3471 as passed by the House, the NAPA Panel concluded that neither bill would explicitly affect service delivery effectiveness (criterion 6), correct significant structural, management or operational weaknesses (criterion 9), remove any external barriers to timely decisionmaking (criterion 10), and affect the quality of presidential and congressional oversight (criterion 14). Thus, to the extent that elevation legislation contained provisions to address these management and operational concerns, the case for VA Cabinet status was strengthened significantly.

This concern for VA management improvement was echoed in testimony on March 15, 1988, from Richard Fogel, an Associate Comptroller General of the General Accounting Office (GAO):

> Overall, the problem we see is that VA's managers—at the Administrator's level and at the top of the major VA departments—have not exercised enough oversight of the field facilities that deliver benefit and medical services to veterans. As a result, top managers do not have reliable data about facilities' performance, do not have assurance that quality services are being provided, and do not know whether services are being provided as efficiently as possible. Our reviews have shown that various components of VA's health care quality assurance system were not being carried out effectively by the medical centers and that VA hospitals were not operating efficiently. In most cases, top VA management was unaware of the problems.
>
> Making VA an executive department is not necessary to correct this problem, nor will it be a panacea. It could, however, present an opportunity to move toward a more active, involved, and accountable top management team. Whether or not [Cabinet-elevation] legislation is enacted, we believe that VA's top leaders should focus greater attention on the efficiency and quality of the benefit and medical services being provided to veterans.

These views were echoed by other witnesses, including representatives of the Vietnam Veterans of America, the Disabled American Veterans, Representative Jack Brooks, chairman of the House Government Operations Committee, and Senator Alan K. Simpson, former chairman of the Senate Veterans' Affairs Committee. As Richard O'Dell, vice president of the Vietnam Veterans of America, argued in testimony on December 9, 1987:

> [W]e see elevation to Cabinet status not as a reward for a job well done but as a way of bringing some sunshine into an agency that has been left to its own discretionary devices for too long. With so little attention paid to the VA outside of the OMB, the general veterans community and the Veterans Affairs Committees, VA officials have been given too free a reign to do what they have pleased with, or to, important programs and adjudicative processes. Sometimes, as alluded to in discussing health personnel reductions, this has involved violations of specific statutes or Congressional intent. The VA's failure to compensate veterans whose disabilities are associated with exposure to Agent Orange or ionizing radiation are two examples.

As Representative Brooks noted in his testimony before the Senate Committee on Governmental Affairs, also on December 9, 1987,

> I think everybody can tighten up and do a little better and I would hope that the VA would do a little better with this Cabinet status. I think they are going to be under a lot more scrutiny by Congress and by the American people, so I expect them to shape up if they are going to be wearing those fancy suits.

In light of the detailed hearing record, the Committee concluded that its legislation had to include consideration of possible manage-

ment reforms which would strengthen VA's leadership and accountability. Merely changing the title of the agency from Veterans Administration to Department of Veterans Affairs would not be enough. As the Ranking Member of the Committee, Senator Roth, asked on December 9, 1987,

> Are we simply making a hollow, symbolic gesture, or creating higher visibility and a full voice in shaping policy for our veterans? And while we construct the department for our Nation's best, are we simply legislating new stationery or indeed providing an improved internal management and fully accountable benefit delivery system?

The Committee concluded that elevation had to be linked, in large part, to an effective organizational structure.

Second, the Committee noted that, although elevation holds no absolute guarantees of greater policy coordination or higher visibility for veterans programs, it does carry a greater presumption that both will occur. Indeed, according to the NAPA Panel, there is at least some probability that elevation would provide a higher priority for veterans affairs (criterion 1), give greater visibility to the programs of the agency (criterion 4), create a greater presumption for the recruitment and retention of better qualified leadership (criterion 11), and create a greater presumption for more uniform achievement of broad, cross-cutting national goals (criterion 12).

In addition, the Committee took note of Dr. Flemming's testimony regarding the benefits of VA Cabinet status for Cabinet decisionmaking on national issues (criterion 15). The Committee concluded that the Administrator of VA should be at the Cabinet table.

The Committee gave considerable weight to the impact of elevation on the recruitment and retention of qualified leadership at the highest levels of the agency. The Committee noted that there have been problems inside the Veterans Administration concerning the retention of key officials. From 1977–1988, the VA has had four Administrators, four Deputy Administrators, and five Chief Medical Directors. If elevation results in greater presidential attention to the retention of presidential appointees in these key agency posts, the case for elevation is, again, clearly strengthened.

The Committee also gave considerable weight to the role of elevation in generation policy integration at the highest levels of the Executive Branch. The Committee noted with concern the testimony of former VA Administrator Harry Walters on December 9, 1987:

> The elevation of the VA to cabinet-level will ensure proximity to the President and members of the Cabinet when significant issues of domestic policy are being developed. Recently, issues concerning long-term care, the problems of homelessness in America and the AIDS epidemic were all the focus of high level policy decisions. The Veterand Administration with comprehensive, effective programs in each of these areas was absent from the table while discussions were held and decisions were made establishing national direction. From a management perspective it is imperative that policy decisions be based on the best, most

> complete advice available and the exclusion of the VA from the Cabinet prolongs a situation which deprives national decision-makers from garnering information from an agency that has direct knowledge based upon daily, hands-on experience throughout the nation.

The Committee concluded that such a situation deprives the President of critical information, particularly given the VA's expertise in health-care and benefits policy. Such a situation also deprives VA of the insights of other agencies. The Veterans Administration is not the only agency facing an automation crisis in benefits or claims processing, nor is it the only agency dealing with long-term care, homelessness, or AIDS. If the goal of Cabinet decisionmaking is integrated national policy, then VA should be a participant.

That goal of increased coordination is one reason why President Carter decided in 1978 to include his VA Administrator, Max Cleland, in all Cabinet meetings. According to testimony from Administrator Cleland on December 9, 1987,

> Following an extensive study of the needs of America's veterans, President Carter, by executive order, made me a member of the Cabinet for the purpose of attending Cabinet meetings—a practice, I understand, that is not in effect today.
>
> The role was my window to the world—not only providing insight into what the President was thinking and what was happening in the federal government, but, importantly, insight into what I and my agency could do to serve America's defenders and their families.
>
> In contrast, when an administrator does not have access to the President and to the functions of federal government, he can find himself—and the agency—isolated in the bureaucracy and getting "lost in the shuffle"—ultimately causing the mission and the agency to suffer.

This concern regarding VA participation in presidential policy discussions led Congress to include a resolution in the Veterans' Health Care and Programs Improvement Act of 1983 expressing its sense that the President should designate the Administrator of VA as a full participant in the Cabinet and as the "President's principal adviser on all matters relating to veterans and their dependents." The President has consistently chosen not to so designate the Administrator of VA.

The Committee also noted the current Administrator's testimony on December 9, 1987, that he has often been included in key Cabinet meetings on issues of import to the nation's veterans. However, occasional participation is a poor substitute for the automatic access accorded a member of the President's Cabinet. When national issues cross agency and departmental boundaries, Cabinet status becomes one of several devices for encouraging interagency cooperation. The Committee also notes that the President must make clear his or her commitment to the goal of cooperation—whether through the creation of interagency coordinating mechanisms, or

through strong signals that balkanization and territorial disputes will not be tolerated.

Third, after assessing the benefits of elevation, the Committee examined the costs—in terms of dollars, loss of service, added bureaucracy, and inefficiency—and concluded that the costs were either minimal or controllable.

The Committee was particularly concerned about quality assurance within the Departments of Medicine and Surgery and Veterans Benefits. According to testimony on March 28, 1988, from Dr. John Gronvall, Chief Medical Director, elevation would not undermine the wide range of quality assurance programs already in place in VA health care programs: "Because of this extensive attention already being given to our programs, I believe that the proposed elevation of the Veterans Administration to Cabinet status will not materially impact on our quality of care or quality assurance programs." The Committee received similar testimony at the same hearing from R.J. Vogel, Chief Benefits Director.

However, it is the Committee's intent that these quality assurance programs not only survive elevation intact, but that they flourish in the new Department. In its March 28, 1988, hearing, for example, the Committee noted the need for trend and pattern analysis of the VA medical malpractice cases and greater attention to patient injury reporting, as well as concerns regarding the proper measurement of claims processing accuracy through the statistical quality control system.

The Committee was also concerned lest elevation disrupt or undermine the strong bipartisan support accorded veterans programs in Congress. According to the NAPA Panel, while the elevation of VA was no guarantor of improved management or efficiency, neither would it adversely affect the delivery of services to America's veterans or their dependents. However, as the NAPA Panel chairman, Mr. C. William Fischer, noted in testimony on March 15, 1988, Congress should not assume that elevation will have any automatic impacts one way or the other:

> It would be a shame, and it would be a disservice to the veterans if people regarded this act, in and of itself, as doing something for the services to veterans. We would hope that if the Congress should make that judgment to elevate that they would not de-emphasize or delay continuing their oversight and continuing to work hard at improving the programs [for veterans].

Finally, the Committee examined the budget impact of elevation, and concluded that the costs were within reasonable limits. According to initial estimates from the Congressional Budget Office (CBO), the Office of Management and Budget (OMB), and NAPA, the dollar cost of elevation is minimal, ranging from $30,000 in the low estimate from CBO to $1.4 million in the mid-range estimate from OMB, and $9.3 million from NAPA.

According to the final CBO estimate on the Committee bill as adopted at mark-up on April 14, the total cost of elevation is $33 million over five years, with the bulk of the cost coming in provisions to expand the Office of Inspector General (OIG). Given the past success of the VA Inspector General in finding waste, fraud,

and abuse, and recovering funds, however, the Committee believes that the cost of expansion will be offset by cost savings from more effective investigations.

Moreover, under the Committee's bill, the Department is required to closely monitor the costs of elevation, and must report to Congress at the end of each fiscal year for five years on the additional cost resulting from elevation over the cost of continuing operations of the VA as an independent agency.

In sum, the Committee concluded that the gains from elevation were significant, while the costs were small. Further, the Committee concluded that, if done right, elevation presents an opportunity to significantly strengthen the agency's leadership and accountability, thereby helping America's veterans through tangible improvements in the agency's effectiveness. As Dwight D. Marshall, national service officer for the Disabled American Veterans in Wilmington, Delaware, said in testimony before the Committee on March 28, 1988:

> I do not fully understand the workings of the federal government here in Washington, D.C., but if the elevation of the VA to Cabinet level enhances management efficiency and helps alleviate conditions which place extreme pressures on VA personnel to produce more with less resources, then it will be worthwhile.

The Committee agreed that elevation offered an opportunity for substantive management reform, and concluded that the value of elevation depended in large measure on the specific content of the legislation—the structure of the Department, the number of presidential appointees, the number of other potential political officers, the strengthening of reporting and oversight mechanisms, the consolidation of fragmented management to help the Department achieve effective and efficient performance, and the modification of restrictions on the Secretary's authority to manage the new Department.

THE CRITERIA FOR LEGISLATION

The Committee paid particular attention to four basic guidelines in developing legislation to create a Department of Veterans Affairs: (1) where appropriate, the Committee should provide leadership flexibility to the new Secretary; (2) the Department should have a proper mix of presidential, noncareer, and career leadership; (3) the Department should have a clear line of authority between the Secretary, the operating units, and the various staff offices, including the Inspector General, General Counsel, and Assistant Secretaries; and (4) the Department should have the strongest internal control and management information possible. These criteria shaped the Committee's legislative approach to the elevation of VA.

The first criterion—appropriate flexibility for the Secretary—reflected a consensus among the past and present VA Administrators on the need to give the Secretary of Veterans Affairs the freedom to manage the Department effectively. According to testimony from former Administrator Walters on December 9, 1987:

> [I]t is my firm belief that following enactment the new Secretary should be allowed the privilege to manage and lead the department. Congress, over the years, has become involved in managerial and operational aspects of the agency; this effort has, from time to time, been occasioned by necessity but with the establishment of a Department of Veterans' Affairs it is incumbent that the Secretary be provided as much latitude and freedom of action as possible.

This view was echoed by OMB Deputy Director Joseph R. Wright, Jr., in testimony on March 28, 1988, and by the NAPA Panel in its analysis of ways in which the Committee could improve any elevation legislation that it might report for full Senate consideration. In seeking to provide adequate flexibility to the Secretary of Veterans Affairs under an amendment in the nature of a substitute to S. 533, the Committee concentrated on four specific provisions:

1. The legislation gives the Secretary the authority to create up to four Assistant Secretary positions. In contrast to H.R. 3471, which mandated the creation of eight Assistant Secretaries, the Committee's substitute vests authority in the Secretary to detemine how many Assistant Secretaries are needed. As discussed later in this section of the legislative report, it is the Committee's intent, however, that the Department have a consolidated management structure. Therefore, the Secretary's flexibility is limited by the upward limit of four Assistant Secretaries.

2. The legislation gives the Secretary the authority to create up to 15 Deputy Assistant Secretaries. As discussed later in this section, the Committee bill requires that the Secretary make at least two-thirds of the Deputy Assistant Secretary appointments within the competitive service as a way of emphasizing the importance of expertise and continunity in the Departments leadership corps.

3. Working in close consultation with the Senate Veterans' Affairs Committee, the Committee on Govenrmental Affairs elected to modify a key management requirement embodied in section 210(b)(2) of title 38, United States Code. That section required the Administrator of VA to submit a detailed notification of any reorganization in the agency involving 10 percent or more full-time equivalent employees at a duty station for 25 or more employees or a free-standing outpatient clinic.

While the Committee recognized that section 210(b)(2) has a significant basis in fact, it concluded that a modification was warranted as a signal of congressional confidence in the first Secretary's commitment to take care to faithfully execute the laws. Under the Committee substitute to S. 533, this provision is modified to increase both the percentage and number of employees that must be involved in a reorganization within the Central Office of the Department before the notice and wait requirement under section 210(b)(2) is triggered.

The Committee bill also temporarily waives the 210(b)(2) provision for the Central Office of the Department for an reorganization necessary to implement the transition to Cabinet status which occurs within the first six months following the effective date of

the Act. Without this waiver, it is conceivable that the reorganization needed to implement the elevation could not become effective until October 1, 1990, or 18 months after the effective date contained in the Committee bill.

The Committee also elected to repeal a provision of H.J. Res. 395, the fiscal year 1987 Continuing Resolution, which restricted OMB's authority to review transcripts of testimony of Executive Branch witnesses before the Veterans Affairs and Appropriations Committees of the Senate and House of Representatives. To the Committee's knowledge, no other agency is similarly restricted. The Committee concluded that repeal was warranted as a gesture of congressional confidence in the first Secretary.

4. The legislation does not contain the provisions of section 6 of H.R. 3471 which would require the Secretary to establish a regional office in every state. The Committee decided that such a provision was both unnecessary—since a regional office already exists in every state without a statutory requirement to do so—and was overly prescriptive in defining the parameters of the basic operating structure of the Department.

In providing these and other discretionary authorities to the Secretary of Veterans Affairs, the Committee signaled its agreement with the basic principal of flexibility. However, where the Committee felt there was a need to prescribe how the Department must operate, it did not shy from that responsibility. Creation of a new Cabinet department involves blending abstract public management principles and concrete administrative realities. To the extent the realities required Congressional prescription in the case of veterans affairs—for example, the need for a proper balance of presidential and career executives or a stronger Inspector General—the Committee was willing to make the needed changes.

The second criterion for elevation legislation—a proper mix of presidential and career leadership—reflected the Committee's commitment to maintaining the current focus on nonpartisanship, expertise, and continuity at VA as it moves to Cabinet status. As former Administrator Max Cleland argued before the Committee on December 9, 1987:

> I firmly believe that the Secretary and Deputy of the Department of Veterans Affairs should be appointed by the President, subject to confirmation by the Senate. The Inspector General, by law, is also appointed and confirmed in this manner * * * .
>
> I do not believe, however, that presidential appointments and Senate confirmation should go deeper within the Department. The Veterans Administration has a history of high turnover * * * . Tampering with the career understructure of the agency only serves to further the lack of continuity in areas that should be served by career employees whose job is to administer entitlements established by Congress.
>
> I further believe that presidential appointments and Senate confirmations below the Secretary, Deputy Secretary, and Inspector General would politicize functions that

> are simply not political, and prohibit the leadership of the Department from ensuring accountability.

This view was shared by Senator Alan Cranston, chairman of the Senate Veterans' Affairs Committee, and was also reflected in concerns expressed by members of the Committee on Governmental Affairs.

Nevertheless, the Committee also noted the compelling arguments presented by former Administrator Walters, given at the same hearing, on the opposite side of the issue:

> The question of whether the President should nominate, with the advice and consent of the Senate, the line managers or proposed Undersecretaries has also been raised. It has been my experience that most organizations are only as good as the people in them so the confirmation process will serve as another step in ascertaining individual qualifications and in providing a public forum for scrutinizing each Undersecretary, as well as, each Assistant Secretary prior to final appointment. The process of nomination, advise and consent has served the nation exceptionally well over the past two hundred plus years and I view its application to those instructed with the management and operation of programs and benefits for this nation's veterans as wholly consistent with the intent of the founding fathers.

This view was shared in particular by representatives of the Paralyzed Veterans of America, the Vietnam Veterans of America, and NAPA.

Given the intensity of concern on both sides of this question, the Committee sought to balance the need for continuity and expertise and the need for accountability and oversight through five specific provisions of the substitute bill:

1. The legislation provides that the two proposed key operating positions—Chief Medical Director and Chief Benefits Director—be selected on the basis of expertise and without regard to political affiliation or political qualification. The legislation also provides a set of clear qualifications for each position as guidance to the search commission, and as a measure against which the Senate Veterans' Affairs Committee might assess the merits of confirmation for presidential nominees.

Further, when a vacancy occsurs in either position, the Secretary of Veterans Affairs is required to appoint a search commission composed of representatives of affected communities, veterans, two past occupants of the position (if the Secretary decides that such persons are desirable members of the commission), experts in the management of health care or benefits programs in the public or private sector, and the Deputy of Veterans Affairs. These commissions exist solely to make recommendations of candidates to the President, and are tasked to find individuals of high integrity and expertise.

In addition, the Committee bill establishes four-year terms of office for both positions, with reappointments possible for like terms. Though the occupants clearly serve at the pleasure of the

President, the term conveys the Committee's intent that continuity of service be emphasized, and that the President, the Secretary, and potential nominees recognize the value of such longer-term service.

Further, if the President removes either the Chief Medical Director or the Chief Benefits Director before the end of the four year term, the President is to communicate the reasons for removal to the Senate and House of Representatives. Again, though the occupants serve at the pleasure of the President, this reporting requirement carries the Committee's intent that removal be based on professional, not political reasons.

Finally, the legislation also provides that the Deputy Chief Benefits Director for Memorial Affairs be selected by the Secretary solely on the basis of integrity and demonstrated ability in the administration of memorial affairs programs within the Veterans Benefits Administration or programs of similar content or scope in the public or private sector, and establishes a four-year term for that position.

2. The legislation places caps on the total number of noncareer appointees to the Senior Executive Service (SES) and the number of Schedule C personal and confidential assistants in the Department. It is the Committee's intent in legislating such caps that the VA maintain a strong career service. By limiting the number of noncareer SES to five percent of the total SES appointees in the Department, and by limiting the number of Schedule C's to 15, the legislation places clear obstacles to the politicization of the Department by any President, regardless of his or her party or ideology.

3. The legislation provides that at least two-thirds of the Deputy Assistant Secretaries selected in the Department be in the competitive services, thereby emphasizing merit and continuity at the interface between the presidentially-appointed Assistant Secretaries and the Secretary-appointed Deputy Assistant Secretaries.

4. The legislation requires that, except as otherwise provided in the Act, political affiliation or political qualification may not be taken into account in the appointment or advancement of any person to any position or in the performance of any services in the Department.

5. Under the legislation, all presidential appointments are governed by provisions which allow those positions to be occupied by a temporary appointment for no more than 120 days before a nomination is submitted to the Senate. It is the Committee's view that vacancies be filled as quickly as possible, thereby minimizing the impacts of turnover of presidential appointees.

Under the Committee's bill as outlined above, the Department would have no fewer than seven and no more than ten presidential appointees, depending on the number of Assistant Secretary positions created by the Secretary. It is the Committee's view that the bill places presidential appointees where they belong—at the top of the agency—and establishes effective obstacles to politicization below.

Under the Committee bill and using current employment data, the total number of presidential and noncareer SES appointees in the Department of Veterans Affairs could not exceed 17. That figure is based on fiscal year 1987 data, and is the sum of (1) a

maximum to ten presidential appointees and (2) a maximum of noncareer senior executive the SES not to exceed five percent of the total number of senior executives—career and noncareer—employed by VA at the end of the preceding fiscal year (14 at the end of the fiscal year 1987 in this calculation).

At the maximum under the Committee bill, the Department's leadership corps could be composed of no more than 12 percent presidential and noncareer SES appointees. As such, in the Committee's view, the Department of Veterans Affairs would compare favorably with the Department of Energy, where the leadership corps is composed of nine percent presidential and noncareer appointments.

The issue in enacting such caps is not whether presidential and noncareer appointments are inherently positive or negative. Indeed, the Department of Energy leadership corps is composed of 34 percent presidential and noncareer appointments. Rather, the issue is whether there is a compelling case for reducing a strong career presence at the top of VA in favor of more presidential and noncareer appointees. Given the VA's strong operational character and need for continuity of leadership, the Committee elected to impose limits on the number of potential political appointees as a barrier to any erosion of the Department's institutional capacity and long-term vitality.

The third criterion for elevation legislation—clear reporting lines between the Secretary, the operating units, and the Assistant Seretaries—reflected the Committee's concerns about establishing a clear chain of command from the Secretary through the Deputy Secretary and down through the department. In a highly decentralized agency like the VA, the Secretary must have a single channel of command. However, in 1988, at least eight different staff units—budget, personnel, management, logistics, general counsel, equal opportunity, congressional affairs, and public affairs—reported to either the Deputy Administrator or the Chief of Staff on matters of basic management policy, while three different operating units—the Department of Medicine and Surgery (which had a $12 billion budget and 194,000 employees), the Department of Veterans Benefits (which had a $15 billion budget and 13,000 employees), and the Department of Memorial Affairs (which had a $47 million budget and 1,200 employees)—reported directly to the Secretary on matters of basic service policy and delivery.

According to both GAO and NAPA, these multiple reporting chains create confusion over which unit is responsible for what, and who reports to whom. As a result, the NAPA Panel recommended a consolidation of the eight staff units into four—a general counsel an Assistant Secretary for External Affairs, an Assistant Secretary for Planning and Budget, and an Assistant Secretary for Management and Logistics. As the NAPA Panel suggested in its March 14, 1988, report to the Committee:

> Implicit in the structure suggested * * * is the consolidation and strengthening of the department's planning, budgeting and administrative management activities which are now scattered among several different staff offices. For example, the functions of personnel, logistics

> (construction, procurement and supply and administration), and information management and telecommunications are now managed in three separate organization units. The Panel believes department operations and the new secretary's ability to manage them would be enhanced by this consolidation.

Neither GAO or NAPA expressed opposition to VA's highly decentralized service delivery system. Rather, as Associate Comptroller General Fogel testified on March 15, 1988:

> We think you have to have a decentralized organization, given the size of VA and how the programs have to be delivered. What we are concerned about is that the top management of VA here in Washington does not get or act upon the right types of information to really know what is going on in terms of variations in the delivery of quality services and, therefore, cannot really effectively hold the people out in the field accountable, let us say even in the comparative sense, with their peers that are running similar organizations to improve quality service where it needs to be [improved]. That is the real problem we see. We are not opposed to decentralization.

In addressing the need for a tighter organizational hierarchy and a clear chain of command, the Committee adopted three specific provisions in its elevation bill:

1. The legislation makes clear that either the Secretary or the Deputy Secretary of the Department will be responsible for supervising the Assistant Secretaries, the Inspector General, and the General Counsel. If the Secretary chooses to delegate those duties, the Secretary may only delegate to the Deputy Secretary.

It is the Committee's intent that the Department have at least one official in the Office of the Secretary as the key official to whom the staff units report, and that the official be either the Secretary or the Deputy Secretary, not a Chief of Staff or other staff officer who is not subject to presidential appointment and Senate confirmation.

2. The legislation also consolidates the number of staff units from eight to no more than five—up to four Assistant Secretaries and one General Counsel. The Committee bill gives the Secretary authority to distribute the following functions among up to four Assistant Secretary positions: (1) budgetary and financial functions, (2) personnel management and labor relations functions, (3) planning, studies, and evaluations functions, (4) management, productivity, and logistic support functions, (5) information management functions, (6) capital facilities and real property program functions, (7) equal opportunity functions, (8) functions regarding the investigation and adjudication of complaints of employment discrimination within the Department, (8) functions regarding intergovernmental, public, and consumer information affairs, and (9) procurement functions.

The legislation also permits the placement of the congressional relations function outside an Assistant Secretary position, if the Secretary so desires.

It is the Committee's view that the Department will benefit from maximum consolidation of Assistant Secretary functions. Though, the bill allows up to four Assistant Secretary positions, the Committee found the NAPA suggestion for three Assistant Secretaries compelling, and recommends that the Secretary closely review that approach.

3. The legislation merges the current Department of Memorial Affairs into the new Veterans Benefits Administration, Thereby reducing the number of operating units reporting directly to the Secretary from three to two.

In combining the Department of Memorial Affairs with the larger Department of Veterans Benefits, it is the Committee's intent that there be no diminution of the program currently administered by the Department of Memorial Affairs under chapters 23 and 24 of title 38, United States Code. As Senator Heinz and Senator Sasser both noted at the Committee's mark-up of the legislation on April 14, 1988, the Department of Memorial Affairs may be small compared to the much larger Departments of Medicine and Surgery and Veterans Benefits, but administers a set of programs of great actual and symbolic importance to America's veterans. Though the merger of Veterans Benefits and Memorial Affairs will increase administrative efficiency through shared services, and will likely produce cost savings through reductions in full-time-equivalent administrative positions, the Committee sought to pervent any disruption in the operational effectiveness of memorial affairs programs.

Therefore, the Committee adopted an amendment at mark-up to create a Deputy Chief Benefits Director for Memorial Affairs who will be responsible for the ongoing management of an effective memorial affairs program. This Deputy Chief Benefits Director will be appointed by the Secretary at Executive Level IV, and will be responsible for administering chapter 23 and 24 of title 38, United States Code. This amendment expresses the Committee's intent that the Department of Memorial Affairs remain intact as a distinct operating subunit of the Veterans Benefits Administration.

The fourth criterion for legislation—development of the strongest internal control and management information possible—reflected the Committee's concern that top Department managers have all the information they need to effectively lead a highly decentralized agency. According to testimony from GAO on March 15, 1988, VA officials do not now have access to all the information needed to effectively manage the agency. As Associate Comptroller General Fogel testified:

> For an organization such as VA to effectively manage a large and diverse network of Service providers, management must have well conceived and designed information systems to give it timely, complete, and accurate cost and workload performance data. Our work on VA's financial management and information systems indicates that although progress has been made in developing appropriate systems, more remains to be done.

In developing elevation legislation, the Committee paid particular attention to ways in which the Department's information

system could be strengthened, and focused on two specific provisions:

1. The legislation requires the Secretary to designate one Assistant Secretary whose functions include budget and financial management as the Department's Chief Financial Officer (CFO). As CFO, this Assistant Secretary will be responsible for agency-wide leadership on financial management system improvement, and is required to prepare and transmit to the Senate and House of Representatives an annual report on the agency's financial management. Under the chain of command adopted in the Committee bill, this report would be transmitted for approval to the Secretary before transmittal to Congress.

In addition, this Assistant Secretary is also required to develop a plan for strengthening internal financial control systems, and to transmit the plan to the Senate and House of Representatives in the first annual report. It is the Committee's intent that this Assistant Secretary exercise the mandate of CFO to strengthen the agency's financial management systems, particularly in the area of cost accounting.

2. The legislation requires the Secretary to provide for not less than one full-time position in the Office of Inspector General for the equivalent of every 367 full-time positions in the Department of Veterans Affairs. At current levels, that ratio would produce a total of 547 full-time positions in the Office of Inspector General, or an increase of 165 positions. This bill does not alter the Inspector General's authority under section 6(a)(6) of the Inspector General Act of 1978, title 5, United States Code, app. I, to recruit the individuals who will fill these positions.

The Committee views the strengthening of the Office of Inspector General (OIC) as a critical step for ensuring effective internal oversight of quality assurance within the Department's chief operating units. The Committee noted that, according to statistics kept by the President's Council on Integrity and Efficiency, the VA's Office of Inspector General is among the smallest in the Federal government in terms of dollars-to-workforce and employees-to-workforce ratios. In establishing a ratio of one OIG position for every 367 positions in the Department, the Committee draws no conclusion that such a ratio is the maximum needed for either the Department or other Federal agencies. Rather, this is the minimum needed in the Department.

In seeking ways to strengthen the Department's internal controls, the Committee also considered a proposal to establish an Assistant Secretary dedicated solely to the functions of program evaluation and quality assurance. The Committee took particular note of the NAPA Panel's conclusion that "the Office of Program Analysis and Evaluation, now located in the Office of the Associate Deputy Administrator for Management, has not had the resources or the charter to be as effective as similar units in some Cabinet Department and independent agencies in analyzing and recommending important improvements in program efficiency."

The Committee also noted the following problems cited by GAO in testimony before the Committee on March 15, 1988, regarding medical quality assurance systems:

> After we reported in 1985 that none of the medical centers we reviewed were in compliance with VA's internal quality assurance requirements, we began a series of reviews of quality assurance programs. In 1986 we reported that the supervision of surgical residents at VA medical centers was inadequate in 34 percent of the 148 cases we reviewed. In 1987 we reported that VA's patient injury control program was not effective. Later that year we reported that medical centers were not properly following VA's system for monitoring the quality of care being provided to veterans supported in community nursing homes. Our conclusions from this series of efforts (as well as several ongoing evaluations) are (1) VA has not provided its staff clear instructions on exactly what they should be doing to assure that quality care is provided and (2) even when VA acts to clarify the guidelines, questions remain concerning the extent to which managers at central office and the medical centers assure that such guidance regarding the quality assurance systems is appropriately implemented. We believe that senior managers in VA and the Department of Medicine and Surgery [the Veterans Health Service and Research Administration under the Committee's substitute] should more actively monitor, through existing data systems, the quality of care being provided to veterans in all VA facilities.

When asked in the Committee's hearing on March 28, 1988, about progress toward establishing a data base for the trending and pattern analysis of medical malpractice cases—a data base promised in testimony before the Senate Veterans' Affairs Committee in hearings in 1984—the current Medical Inspector, Dr. Herbert Begans, testified as follows:

> Chairman GLENN. GAO has been a little bit—more than a little bit, they've been somewhat critical when they looked at some of the reporting procedures and so on. Dr. Begans, according to GAO your medical malpractice and patient injury systems are still not generating good data—according to them. When can we expect that you will have those systems in place and operating?
>
> Dr. BEGANS. We are still working through getting the IG [Inspector General] data base, along with the General Counsel's Office and the district counsel in the field to report all of the information relative to claims. We are still working through some procedures that are in part legal in part to deal with confidentiality and privacy, especially before the case has been brought to a trial or administrative settlement.
>
> Chairman GLENN. OK, the question was when you will have the systems in place and operating?
>
> Dr. BEGANS. The system is in place now; it is not fully operational primarily because of the confidentiality and privacy issues, in part due to my limitation as to staffing to make the program be totally put into the computer. Be-

cause of the massive data base, it does require computer assisted activity.

Chairman GLENN. In place, but when will it be operating then? What's your estimate?

Dr. BEGANS. We had targeted to have it operating by this time. I cannot give you a date that I can absolutely stay with, but I had hoped that we would have the first report by October 1 of this year. Due to the employee I just brought in from the field having lost [sic] at her last day at work to go to another part of the department on Friday, I am now back in the recruiting phase of my key person who will manage that program. So I would guess I will slip probably four months, and it will be probably February before I have good data coming out of that system.

Chairman GLENN. Well, I would hope you organize in a little better depth than that, that something that is important to 194,000 employees doesn't get held up because one person decides to change departments here. To slip four months because one person goes over to another department isn't a very good recommendation to the veterans of America that they are going to get the best operation possible.

In a follow-up letter to the Committee dated April 6, 1988, the current Chief Medical Director, Dr. John Gronvall assured the Committee that the medical malpractice data system will be operational February 1989. The Committee will follow this assurance closely, and will also review progress on that patient injury reporting system at that time.

Further, while the Committee elected to give the Secretary authority to determine the number and functions of up to four Assistant Secretary positions, and thereby declined to designate an Assistant Secretary for Program Evaluation and Quality Assurance, it encourages the Secretary to give immediate attention to the strengthening of the program evaluation function both within the operating units and at the Assistant or Deputy Assistant Secretary level. Such a strengthened program evaluation office could provide the kind of independent analysis and review needed to keep track of agency-wide management improvement, as well as the implementation of systems like the medical malpractice system described above.

III. LEGISLATIVE HISTORY

Legislation to create a Department of Veterans Affairs was introduced as S. 533 on February 17, 1987, by Senator Strom Thurmond. By the date that the bill was reported out of Committee, it had a total of 68 cosponsors. Hearings were held at the Committee on Governmental Affairs on December 9, 1987, March 15 and March 28, 1988. The following witnesses provided testimomy:

Senator Strom Thurmond, State of South Carolina;

Senator Frank Murkowski, State of Alaska;

Representative Jack Brooks, State of Texas;

Representative G.V. (Sonny) Montgomery, State of Mississippi;

Representative Gerald B.H. Solomon, State of New York;

The Honorable Thomas Turnage, Administrator, Veterans Administration;

The Honorable Max Cleland, former Administrator, Veterans Administration;

The Honorable Harry Walters, former Administrator, Veterans Administration;

Paul S. Egan, Legislative Director, Vietnam Veterans of America;

Cooper T. Holt, Executive Director, Washington Office, Veterans of Foreign Wars;

E. Phillip Riggin, Director, National Legislative Commission, American Legion;

John F. Heilman, National Legislative Director, Disabled American Veterans;

R. Jack Powell, Executive Director, Paralyzed Veterans of America;

Morgan S. Ruph, National Executive Director, AMVETS;

C. William Fischer, University of Colorado, chairman, National Academy of Public Administration Panel on Elevation of the Veterans Administration to Cabinet Status;

Howard Messner, American Consulting Engineers Council, member, National Academy of Public Administration Panel on Elevation of the Veterans Administration to Cabinet Status;

Albert H. Linden, Disabled American Veterans, State of Florida, member, National Academy of Public Administration Panel on Elevation of the Veterans Administration to Cabinet Status;

Richard Fogel, Associate Comptroller General, General Accounting Office;

Senator Alan Simpson, State of Wyoming;

The Honorable Joseph R. Wright, Jr., Deputy Director, Office of Management and Budget;

The Honorable Roy Ash, former Director, Office of Management and Budget, former chairman, President's Advisory Council on Government Reorganization (1969-70);

The Honorable Arthur Flemming, former Secretary of Health, Education, and Welfare;

Dr. John Gronvall, Chief Medical Director, Veterans Administration;

Dr. Frank Conrad, Director, Office of Quality Assurance, Veterans Administration;

Dr. Herbert Bagans, Medical Inspector, Veterans Administration;

R.J. Vogel, Chief Benefits Director, Veterans Administration;

Raymond Avent, Deputy Chief Benefits Director for Field Operations, Veterans Administration;

Grady Horton, Deputy Chief Benefits Director for Program Management, Veterans Administration; and

Dwight Marshall, National Service Office, Disabled American Veterans, Wilmington, Delaware.

The Committee held a mark-up on April 14, 1988, and, by a voice vote, approved an amendment in the nature of a substitute to S. 533. The substitute contained the major provisions of elevation de-

scribed in the background section of this report. On a recorded vote, the Committee rejected by a vote of seven to three an amendment offered by Senator Heinz to create a separate Memorial Affairs Administration within the Department to be headed by a Director of Memorial Affairs at Executive Level IV. The record vote was as follows:

Amendment passage: failed, 3 yeas, 7 nays

Yeas	Nays
Roth	Nunn
Heinz	Levin
(Proxy)	Sasser
Trible	Pryor
	Mitchell
	Glenn
	(Proxy)
	Bingaman

However, the Committee acknowledged Senator Heinz's concerns regarding the need to insulate the former Department of Memorial Affairs as a distinct subunit of the new Veterans Benefits Administration by adopting by voice vote an amendment offered by Senator Glenn to create a Deputy Chief Benefits Director for Memorial Affairs who will administer the memorial affairs programs governed by chapters 23 and 24 of title 38, United States Code.

The Committee adopted by a voice vote an amendment offered by Senator Levin to add a task to the agenda of the National Commission on Executive Organization and Management, which is created in section 19 of the bill. The amendment directs the Commission to determine whether the number and the organizational structure of the Executive Departments is appropriate to ensure effective functioning of the Executive Branch and whether any Executive Departments should be abolished or established, and also adopted by voice vote an amendment by Senator Roth to enhance the implementation of the recommendations of the National Commission on Executive Organization and Management.

Subject to amendments, and with a quorum present, the Committee had agreed earlier in the mark-up to report favorably S. 533, by unanimous vote of nine to zero:

Yeas	Nays
Nunn	
Levin	
Sasser	
Pryor	
Mitchell	
Stevens	
Rudman	
Heinz	
Glenn	
(Proxy) [1]	
Bingaman	
Roth	
Cohen	
Trible	

[1] By Committee Rules, proxy votes are counted for recording purposes only on final passage.

IV. Additional Issues

The Committee examined two additional issues in considering legislation to elevate the Veterans Administration to Cabinet status. The first dealt with the overall organization and management of the Federal government, and the second with issues surrounding claims processing for veterans benefits programs.

NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION AND MANAGEMENT

With the elevation of VA to Cabinet status in 1989, the next President will have 14 Secretaries at the Cabinet table, an increase of five since 1960. According to former OMB Director Roy L. Ash, who testified before the Committee on March 28, 1988, the number of Departments and major agencies now laying claim to presidential attention has created "a serious managerial dilemma within the Executive Branch of government."

According to former Director Ash, the dilemma is as follows. On the one hand, the President is responsible under the Constitution to "take care that the Laws be faithfully executed." On the other hand, it is physically impossible for the President to work directly with the approximately twenty Department and agency heads who administer the laws on a day-to-day basis. As a result, the President must often delegate significant authority to White House and OMB staff, who sometimes exercise that authority in a seemingly arbitrary fashion.

Ironically, this desire for the President's personal attention provides at least one rationale for creation of a Department of Veterans Affairs. However, the elevation may, in turn, increase the difficulty of gaining attention for other worthy Departments and agencies, which may, in turn, stimulate further efforts to elevate agencies to Cabinet status, and so on.

The growth of the Cabinet and the corresponding demands on the President's time and energy lead to what former Director Ash characterized as a much broader question: "what would be the most effective Executive Branch structure for these times and the times ahead?":

> The last department change was nine years ago. The last full scale consideration of the Executive Branch structure was long before that. Organizational structures should not be considered immutable. Effective performance, even survival, of any living organism requires constant adaptation to the changing times and ever unfolding needs and emphases. Organization structure does not guarantee effective performance but neither can performance be fully effective without workable structures—means for snythesizing diverse efforts towards unified goals, for distributing and assigning responsibility, and for assuring accountability for results.

In examining former Director Ash's suggestion for a study of Executive Branch structure, the Committee returned to a proposal

which it reported favorably during the 98th Congress. That bill, to establish a Commission on More Effective Government, was introduced by Senators Roth and Eagleton and supported by a diverse coalition of business and public interest groups. It was adopted by the Committee on a recorded vote of 10 yeas and 0 nays. The Commission was designed to address many of the same tasks contained in the Committee's proposal for a National Commission on Executive Organization and Management.

The Committee decided to adopt a provision to establish the Commission as part of the legislation to elevate the VA to Cabinet status for two reasons.

First, the Committee noted that the need for a comprehensive assessment of the Cabinet becomes more compelling with each additional seat at the Cabinet table. Because the Cabinet exists to serve both the public and the President, an assessment of possible gaps and overlaps in Cabinet coverage is particularly useful to the President and the Congress is setting the agenda for future legislation.

This concern is reflected in the Commission's tasks, including a task added by the Committee in adopting Senator Levin's amendment at mark-up on April 14, 1988, to direct the Commission to determine:

> Whether the number of the executive departments and the organizational structure of such departments is appropriate to ensure effective functioning of the executive branch, whether any such department should be reorganized or abolished, and whether any new executive department should be established.

Second, the Committee noted that the growth of alternative forms of Executive Branch organization over the past decade has created considerable confusion over when and where to use the many organizational structures and tools available to government, and whether and how those tolls should be linked to specific programmatic goals. The rising number of quasi-public corporations and government sponsored enterprises, and increasing efforts to find ways of improving program management through restructuring, privatization, and changes in agency status prompted the Committee direct the Commission to determine, as its first task:

> The criteria by which the President and Congress may evaluate proposals for changes in the structure of the Federal Government, including the criteria by which the President and Congress should evaluate and oversee Government sponsored enterprises and Government corporations.

It is the Committee's intent that the Commission develop guidelines on when and where Congress and the President should use these alternative organizational approaches.

The Committee also directed the Commission to determine whether the structure of the Executive Office of the President (EOP) is appropriate for providing sustained leadership on management improvement within the Executive Branch, to assess the criteria—for example, measures of efficiency and public value—by which the EOP should evaluate and oversee the performance and

management of the Executive Branch, and to determine appropriate mechanisms for ensuring efficient, effective, and accountable delivery of public goods and services.

In creating the National Commission on Executive Organization and Management, the Committee adopted two strategies to enhance the implementation of the Commission's recommendations.

First, the Committee decided to include both Congressional and Executive Branch representatives as members of the Commission. At least six members out of the total of 16 will be Members of Congress—three Senators and three Representatives. Further, the President is free to select additional Members of Congress among the six presidential appointments. In addition, under the effective date in the bill, the appointments to the Commission will not be made until after January 21, 1989, ensuring that the six presidential appointments will be from the incoming, not outgoing, Administration, and, therefore, will represent the next President.

Second, the Committee adopted an amendment offered by Senator Roth to enhance the implementation of the Commission's findings, including a mandate to the Director of OMB to take such actions as appropriate to implement the Commission's recommendations, and a requirement for four annual reports on the status of implementation.

CLAIMS PROCESSING AT THE VETERANS ADMINISTRATION

As part of its examination of the VA in preparation of elevation legislation, the Committee studied the management and operation of claims processing for veterans benefits programs. The Committee was particularly concerned about testimony which indicated problems in the timely and accurate handling of claims within the Department of Veterans Benefits (DVB), which makes initial decisions, and the Board of Veterans Appeals (BVA), which adjudicates final appeals. According to testimony on March 28, 1988, from Dwight Marshall, a National Service Officer of the Disabled American Veterans, the following problems "now exist in the VA regional offices:"

> There has been a steady decline in the number of Department of Veterans Benefits employees over the past several years, without a corresponding decline in workload;
>
> The length of time it takes to obtain VA compensation and pension examinations has been steadily increasing;
>
> The VA's preoccupation with end products [measurement of work level and activity] is detrimental to timely, quality decision-making; and
>
> The inadequacy and over-reliance on pattern [form] letters and the impersonal nature of computer-generated correspondence promotes frustration and confusion among many VA claimants.

The current Chief Benefits Director, R.J. Vogel, acknowledged the problem of timeliness in his testimony before the Committee on March 28, 1988:

> There are twenty-eight standards in our timeliness measurement system. As of January the 31st, 1988, we were meeting an acceptable level in only five of them. One

> year ago it was eleven categories, and two years ago it was eighteen. The slippage is most apparent in the area of original claims. We were meeting acceptable levels in twelve of sixteen categories two years ago, and seven of sixteen last year; today we are doing so only in three.

Mr. Vogel also noted that VA is endeavoring to correct these problems, and that the declining timeliness does not reflect declining quality.

However, the Committee noted that internal VA statistics show an increase in the number of cases remanded from the BVA back to the DVB for further development. The number of remands has increased from approximately 15 percent of all appeals in 1978 to 21 percent by the end of fiscal year 1987 (or 8,564 cases out of 41,296 appeals).

Such remands may be an indication of several system-wide problems—for example, poor original claims development within the DVB regional offices, inadequate medical examinations conducted by private or VA physicians, overworked adjudicators within both DVB and BVA, uncertainties regarding the resolution of highly complex cases like post-traumatic stress disorder or radiation exposure. The Committee noted that a VA task force on the remand problem may shed further light on the source of the increase and possible remedies when it completes its work in the coming months.

The Committee also took note of the current Chief Benefits Director's testimony regarding continuing VA efforts to address these problems through computer modernization and training. The Committee also noted that some of the timeliness problems must be addressed at the highest levels of the agency, through efforts, for example, to improve the timely handling of medical examinations by the Department of Medicine and Surgery, the adequate preparation of files prior to certification to the BVA for appeal, and the depolyment of necessary resources for the adequate recruitment and training of adjudicatory personnel within both the DVB and the BVA.

Despite VA's effort of address these problems, internal VA documents and evaluations requested by the Committee raised additional questions regarding claims processing practices in both the BVA and DVB. The Committee noted three specific problems which appear to deserve further attention:

1. Despite presidential exemptions from the Merit Pay System (granted on September 1, 1982) and the Performance Management and Recongnition System (granted on October 30, 1985), the Committee learned that members of the BVA receive bonus awards based on a productivity-based system administered by the Chairman of the BVA. Under this system, Board members apparently receive cash awards for meeting production goals of 40 cases a week.

Given the spirit of the presidential exemptions to give Board members a measure of independence, and the rationale behind the VA's original request for exemptions from government-wide performance appraisal systems to protect Board members from unwarranted influence in the form of cash bonuses, the Committee found

the continuation of a performance-based award system to be a troubling exercise of management discretion.

In requesting the exemption from the Merit Pay system, VA Administrator Robert P. Nimmo justified the action in a March 15, 1982, letter to the Office of Personnel Management (OPM) on two grounds: (1) only a few positions were involved, and (2) "[t]he proposed exclusion from performance appraisal will protect the judicial independence and the integrity of the board members."

In requesting the subsequent exemption from the Performance Management and Recognition System, VA Administrator Harry Walters justified the action in a June 10, 1985, letter to OPM on two grounds: (1) the Board had been previously exempted from the Merit Pay System, and (2) "[t]he proposed exclusion * * * is considered essential to the protection of the judicial independence and integrity of the Board members and is keeping with the intent of law."

In the Committee's view, if such arguments hold for exemption from formal government-wide performance appraisal systems—and apparently, the argument proved persuasive to the President—they should hold for the VA's current productivity-based performance appraisal system for Board members, which was apparently developed outside the Merit Pay and Performance Management and Recognition systems, and which, to the Committee's knowledge, has not been subject to systematic oversight by the OPM or other experts in performance assessment. It is the Committee's view, therefore, that this bonus award program for Board members should be abandoned and not replaced unless and until the presidential exemptions are lifted.

2. According to internal VA documents, there appear to be serious problems in the management of a number of DVB regional offices, in part because, among other things, personnel cuts have increased individual workloads over the past years, computer modernization has lagged behind hoped-for performance, and training funds have been scarce. The Committee does not question the dedication of the VA regional office employees who are trying their hardest to provide good service to veterans. Rather, as noted above, the Committee questions whether these employees are being given the tools to do their jobs effectively. Site visits and internal evaluations by VA Central Office staff provide the following examples:

A June, 1987, evaluation of the New York regional office reported that:

> New York has several problems characteristic of large urban regional offices. As noted in the overview [in the introduction of the report], New York experiences constant and significant personnel turnover at all levels. Most other stations experience less turnover, and it is generally at the lower levels so that they are able to maintain a stable core of trained personnel at the higher levels. Since this is not the case at New York, the station is at an immediate disadvantage in all important areas—timeliness, quality and productivity—even before an analysis of the operation is made.

A similar comment was made in a December, 1986, report on the Washington, D.C., regional office. As the report itself concludes, these personnel problems appear to be a characteristic of large urban regional offices generally.

A December, 1987, report on adjudication operations in Houston concluded that:

> Timeliness has deteriorated significantly during the past 18 months. In April 1986, for the 28 standard areas of timeliness, Houston met goal in six, MAL [minimum acceptable level] in 24 and the national average in 26. As of the end of November 1987—no areas met goal, one met MAL and none met the national average.

A December, 1986, report of a site visit to Portland, Oregon, concluded that:

> The Adjudication Division in Portland, like most Adjudication Divisions nationwide, is struggling to cope with workload and staffing problems. * * * The current major areas of concern are workflow and due process in appeals. The impact of inefficient organization and poor physical layout are felt throughout the division, taking valuable time away from division personnel that could be better utilized to provide timely, quality service to a veteran. Station management recognized this immediately while division management dealt with the organizational problems.

A follow-up report in September, 1987, concluded that:

> During the past nine months there has been little improvement in timeliness or Target delay times [which measure the speed with which claims are entered into the VA Target computer system]; however, days pending workloads have been reduced and productivity has improved. The division has had problems in the area of SQC [statistical quality control] and has been in a reportable quality situation * * * for the last several staff analyses.

A January, 1988, report on adjudication operations in Phoenix, argued that:

> A review of staff analyses prepared since January 1986 shows a drastic decline in overall processing timeliness of the 100-series end products [which measure completion of VA action on claims for benefits]. The station went from equalling or bettering the national average in all 28 areas to only one area on the last analysis. A steady decline is also noted in Target average delay times.

The most recent report made available to the Committee on Baltimore, dated August, 1986, reported that:

> [T]imeliness for the 28 standard areas of the 100-series end products was poor. There were no areas equal to or better than the national average. Target average delay times exceeded the seven-day standard in each of the last five months prior to the site visit. An out-of-line quality situation presently exists for authorization and rating pro-

> cedural discrepancies and authorization judgment deficiencies. Additionally, at the time of the last station analysis, it was noted that Division management was not performing local SQC in the required amount.

A November, 1987, report on the adjudication division in Lincoln, Nebraska, concluded that:

> This could be an excellent operation. It is not. In many ways this division is doing a disservice to all the veterans which it serves. There are many good people in the Division. Some of them have more to do than they are capable of because of the amount of work with which they are charged. * * * There is a general feeling in the Division that there is no real need to push hard to get work out. This feeling is caused by the fact that no one pushes them to get things out. The general feeling is that "I am meeting my performance standard requirements, why should I break my back?"

at most of the VA's 58 regional offices. The Committee also noted Mr. Vogel's assurance that internal statistics indicate no decline in the overall quality of adjudication agency-wide. Finally, the Committee noted that the willingness to conduct such detailed, self-critical evaluations is a signal of the VA's commitment to finding and correcting claims processing problems whenever and wherever such problems occur.

However, at least in the regional offices involved, the reports show a pattern of problems in the handling of workload and in the recruitment and retention of personnel which may ultimately affect all VA regional offices. The fact that several urban offices have severe personnel problems, for example, may be a harbinger of future problems in other similar offices throughout the system.

Several of the reviews also suggest problems in making improvements even after serious problems are identified. A 1986 undated internal summary regarding Baltimore operations stated, for example, that

> [t]he last two site visit reports found substantial deficiencies in the area of search mail, training, and timeliness. We find it extremely troubling that these same problems surface again and again in site visit reports without any lasting solutions.

Moreover, as GAO testimony before the Committee indicated, top VA officials may not have the internal information systems to know whether corrective action is being taken or is having the desired effect.

As noted above, the Committee believes that all VA employees are dedicated to providing quality service to all veterans. The question is whether the VA is providing the appropriate tools for those employees to do their jobs well—for example, whether the DVB will develop a modernized computer system to replace the antiquated Target system, or whether the agency will receive adequate resources for recruitment and training of a new generation of claims adjudicators.

Ultimately, therefore, the new Veterans Benefits Administration must have the personnel, computer capacity, training funds, and agency-wide leadership needed to ensure that all veterans receive the same quality of service regardless of where they live. It is the Committee's intent that the first Chief Benefits Director selected under the Department of Veterans Affairs Act address these problems, and that the first Chief Benefits Director be selected on the basis of demonstrated ability to provide the management leadership that these problems merit.

The Committee also expressed its concern with the quality control process in the DVB, particularly in response to testimony given before the House Government Operations Subcommittee on Human Resources and Intergovernmental Relations on February 18, 1988, regarding possible manipulation of the work measurement system to increase productivity measures.

The Committee bill addressed these issues through the strengthening of VA's management structure and internal controls, making it possible for the Secretary and top leadership to both detect and correct problems in the field stations. In addition, the Committee considered whether veterans should have the option of judicial review in the Federal Courts once all administrative options within the DVB and the BVA are exhausted. The Committee withheld further consideration of this option pending action by the Senate Veterans Affairs Committee, which has jurisdiction in this matter.

3. The Committee noted its concern regarding potential inconsistency of adjudication in VA's regional rating boards. According to a 1984 internal study by VA's Office of Program Planning and Evaluation, there appears to be a lack of horizontal consistency across regional offices in making rating decisions based on the exact same evidence. The study used a set of extracts from 16 actual cases which were sent in various combinations to 56 of the 58 regional offices for rating determinations. Because all offices were instructed that entitlement had been established in each of the 16 cases, the degree of disability was the only issue for this test of the uniformity of rating decisions.

According to the study results, not all offices rated the cases equally. In the identical post-traumatic stress disorder case, two of the regional offices rated the claim at zero percent disabling, 16 rated the case at 10 percent, 19 rated at 30 percent, 13 at 50 percent, and one at 70 percent.

In the chronic cervical strain case, two of the regional offices rated the claim at zero percent disabling, 13 at 10 percent, 12 at 20 percent, and 26 at 30 percent.

In the hypertensive heart disease case, three regional offices rated the claim at ten percent disabling, two at 20 percent, 25 at 30 percent, 21 at 60 percent, and two at 100 percent.

These results led the VA study team to the following conclusion:

> Evidence from the assessment points to a lack of uniformity in all of the VAROs [VA regional offices]. The lack of uniformity is random, however, no significant pattern of "liberal" and "conservative" VAROs emerged. The Chief Benefits Director, upon seeing the results of this assessment, acted immediately to begin additional training and

to take other steps which will be necessary to ensure uniformity in rating disabilities. Evidence of variation in rating claims is symptomatic of greater problems, however.

Among the problems cited were the rating schedule itself, which "may not reflect current experience for today's work force," and the vagueness of medical reports from patient examinations. The general conclusion of the study, that "some disabilities can and will be assigned different ratings based on the same evidence," was deeply troubling to the Committee, particularly given the fact that different ratings ultimately mean different benefit awards.

When questioned by the Committee about the study on March 28, 1988, the current Chief Benefits Director responded that the problems had been remedied and that the study was out of date. However, the Committee noted that VA has chosen not to replicate the study to see whether corrective action has been successful. Such a study would appear to be particularly useful on a recurring basis as part of systematic program evaluation. As noted earlier, it is the Committee's belief that all veterans should get the same quality of service regardless of where they live.

V. Section-by-Section Analysis

Section 1 sets out the title of the Act as the "Department of Veterans Affairs Act."

Section 2 redesignates the Veterans Administration (VA) as the Department of Veterans Affairs within the executive branch of the Federal government. This section also provides for a Secretary of Veterans Affairs, appointed by the President, by and with the advice and consent of the Senate, as the head of the Department. The Secretary is responsible for the supervision and direction of the Department and shall not assign duties for or delegate authority for the supervision of the Assistant Secretaries, General Counsel, or Inspector General to anyone other than the Deputy Secretary. It is the Committee's intent that either the Secretary or Deputy Secretary have full responsibility for overseeing the internal operations of the Department. The principal officers of the Department are to report directly to either the Deputy Secretary or Secretary, except that the Chief Medical Director and Chief Benefits Director are to report only to the Secretary (Subsections (b) and (c) of Section 3). Section 2 also provides that the Office of the Secretary shall consist of the Secretary and Deputy Secretary, and may include an Executive Secretary.

Section 3 provides for the principal officers of the Department, who shall be appointed by the President, by and with the advice and consent of the Senate, with the exception of the Deputy Chief Benefits Director for Memorial Affairs, who shall be appointed by the Secretary. This section does not preclude the Secretary from appointing special assistants in a staff capacity, but does reflect the Committee's intent that only the Secretary and Deputy Secretary exercise line management authority.

(a) There is to be a Deputy Secretary whose functions are to be determined by the Secretary.

(b) There is to be a Chief Medical Director (CMD), who shall serve as the head of the Veterans Health Services and Research Administration within the Department of Veterans Affairs, and who shall, as such, report directly to the Secretary. The CMD must be a doctor of medicine, and must be appointed without regard to political affiliation or political qualification. Nomination and selection must be based solely on integrity; demonstrated ability in the medical profession, in health care administration and policy formulation, and in health care fiscal management; and on the basis of substantial experience in connection with the activities of the Veterans Health Services and Research Administration.

Whenever there is a vacancy in the position of Chief Medical Director, the Secretary is required to establish a search commission to recommend individuals to the President for appointment. The commission is to be composed of three representatives of clinical care and medical research and education activities affected by the Veterans Health Services and Research Administration established under section 6, one representative of physicians and one representative of nurses employed by the Veterans Health Services and Research Administration, four representatives of veterans served by the Veterans Health Services and Research Administration, not more than two individuals who have held the position of Chief Medical Director, but only if the Secretary determines that it is desirable to have one or both on the Commission, two persons who have had experience in the management of veterans health services and research programs or programs similar in content or scope in the public or private sector. At least two members of the Commission must be veterans receiving compensation for service-connected disability.

(c) There is to be a Chief Benefits Director (CBD), who shall serve as the head of the Veterans Benefits Administration within the Department of Veterans Affairs. The CBD is to be responsible for veterans benefits programs, and for the administration of chapters 23 and 24 of title 38, United States Code, and shall report directly to the Secretary. The CBD must be appointed without regard to political affiliation or political qualification, with nomination based solely on integrity and demonstrated ability in fiscal management and in the administration of programs within the Veterans Benefits Administration or programs of similar content and scope in the public or private sector.

Whenever there is a vacancy in the position of Chief Benefits Director, the Secretary is required to establish a search commission to recommend individuals to the President for appointment. The commission is to be composed of four representatives of education and training, real estate, mortgage finance, and related industries, and of survivor benefits activities affected by the Veterans Benefits Administration established under section 7, four representatives of veterans served by the Veterans Benefits Administration, not more than two individuals who have held the position of Chief Benefits Director, but only if the Secretary determines that it is desirable to have one or both on the Commission, three persons who have had experience in the management of veterans benefits programs or programs similar in content or scope in the public or private

sector. At least two members of the Commission must be veterans receiving compensation for service-connected disability.

The Deputy Assistant Secretary responsible for the performance of personnel management and labor relations functions, or, if no Deputy Assistant Secretary performs such functions, a Deputy Assistant Secretary designated by the Secretary, shall serve as Executive Secretary to the search commissions for both the CMD and CBD.

(d) There is to be a Deputy Chief Benefits Director for Memorial Affairs (DCBD), who shall be appointed by the Secretary for a renewable four-year term. The DCBD must be appointed without regard to political affiliation or political qualification, with appointment based solely on integrity and demonstrated ability in the administration of memorial programs within the VBA or similar programs in the public or private sector. It is the Committee's intent that responsibility for administration of the memorial programs currently administered by the Chief Memorial Affairs Director within the VA be delegated by the new Chief Benefits Director to the Deputy Chief Benefits Director for Memorial Affairs, who shall, in turn, report directly to the Chief Benefits Director.

(e) The incumbent Chief Medical Director may serve the remainder of his term under provisions of law in effect at the time he took office.

(f) The incumbent Chief Benefits and Chief Memorial Affairs Directors may continue service in those positions only until a new Chief Benefits Director is appointed under the terms of this Act. Although the Act merges currently separate benefits administration and memorial functions under single consolidated position titled Chief Benefits Director, until such time as an appointment is actually made to this position, the incumbent Chief Memorial Affairs Director may serve independent of supervision by the incumbent Chief Benefits Director. It is the Committee's intent that the reorganzation inherent in the creation of the expanded Chief Benefits Director position take place upon the filling of that position.

Section 4 provides for the establishment of up to four Assistant Secretaries of Veterans Affairs, appointed by the President, with the advice and consent of the Senate. These Assistant Secretaries shall perform such functions as prescribed by the Secretary and shall report only to the Secretary or Deputy Secretary. Functions assigned to the Assistant Secretaries are to include, but not limited to: (1) budgetary and financial functions; (2) personnel management and labor relations functions; (3) planning, studies, and evaluation functions; (4) management, productivity, and logistic support functions; (5) information management functions; (6) capital facilities and real property program functions (7) equal opportunity functions; (8) employment discrimination investigation and adjudication functions; (9) intergovernmental, public, and consumer affairs functions; and (10) procurement functions. Congressional affairs functions are not required to be performed by an Assistant Secretary.

It is the Committee's intent that the Secretary retain the flexibility to establish an appropriate position for the peformance of congressional affairs functions outside an Assistant Secretary position if the Secretary so desires, and to determine a preferred reporting relationship within the required organizational structure. Func-

tions to be performed by each Assistant Secretary, however, must be stated by the President upon the transmittal of names of individual nomineees to the Senate for confirmation. Individuals who, on the date of enactment of this Act, are performing functions designated under Section 4 may continue to perform such functions until they are assigned to an individual appointed as Assistant Secretary under this Act.

Section 4(c) incorporates certain provisions of S. 1529, a bill to improve financial management in the Federal government, by requiring the Secretary to designate the Assistant Secretary assigned budgetary and financial functions as the Department's Chief Financial Officer (CFO). Functions of the CFO include the development and operation of an effective Department-wide financial management system.

Section 5 provides for the establishment of up to 15 Deputy Assistant Secretaries, to be appointed by the Secretary, and to perform such functions as prescribed by the Secretary. At least two thirds of these positions must be in the competitive service, as defined in and governed by chapter 33, subchapter I, of title 5 of the United States Code. Responsibility for functions assigned to the Assistant Secretaries may be delegated to one or more Deputy Assistant Secretaries. However, certain such functions may be assigned only to a Deputy Assistant Secretary who is in the competitive service. These are: (1) personnel management and labor relations functions, (2) equal opportunity functions, (3) employment discrimination investigation and adjudication functions, and (4) procurement functions. It is the Committee's intent that the spread of political appointments into the Deputy Secretary or equivalent ranks of the Federal service be significantly slowed.

Section 6 redesignates the Department of Medicine and Surgery within the Veterans Administration as the Veterans Health Services and Research Administration within the Department of Veterans Affairs.

Section 7 redesignates the Department of Veterans Benefits within the Veterans Administration as the Veterans Benefits Administration (VBA) within the Department of Veterans Affairs. This section also provides for the transfer of the Department of Memorial Affairs to the Veterans Benefits Administration in the Department of Veterans Affairs. All benefit-related programs will thereby be consolidated into one organizational component, the VBA. In addition, programs currently administered by the Chief Memorial Affairs Director shall be administered by the Deputy Chief Benefits Director for Memorial Affairs in the Deparment of Veterans Affairs.

Section 8 provides for a General Counsel to the Department of Veterans Affairs, to be appointed by the President, by and with the advice and consent of the Senate.

Section 9 redesignates the Office of the Inspector General of the Veterans Administration as the Office of the Inspector General of the Department of Veterans Affairs. It also provides for the expansion of staff assigned to the Office of the Inspector General (IG), based on a ratio of not less than one full-time equivalent IG position to every three-hundred-sixty-seven full-time equivalent positions in the Department. This expansion may be accomplished in

phases over three fiscal years, to begin no earlier than fiscal year 1990, and to end no later than the end of Fiscal Year 1992.

Section 10 provides for authority to fill vacancies in senior positions in the Department of Veterans Affairs with temporary details only up to 120 days. This section also places caps on the number of noncareer Senior Executives (five percent of the total number of filled Senior Executive Service postions in the preceding fiscal year) and the number of Schedule C positions (15). It is the Committee's intent to place scraps on the number of presidential appointments and noncareer Senior Executive Service appointments in the Department's senior management ranks. In addition, Section 10 protects against the consideration of political affiliation or political qualification in employment and advancement decisions within the Department.

Section 11 amends Title 38 of the United States Code to modify coverage of administrative reorganizations subject to Congressional notice-and-wait requirements.

(a) Section 210(b)(2) of Title 38 is modified to distinguish between Central Office units and field offices or facilities, retaining current requirements for administrative reorganizations of field offices or facilities and establishing new requirements for reorganizations of Central Office units. Section 210(b)(2) currently requires that the Secretary notify Congress regarding certain reorganizations at the time the President submits his Budget request to Congress for the fiscal year in which any reorganization within the VA (regardless of whether the reorganization involves Central Office units or field offices or facilities) is to take place.

Under the Committee modification, the definition of a covered Central Office unit is changed to affect only a unit in which there is a reduction in full-time equivalent employees by 25 percent or more, or by a percent which, when added to the percent reduction made in the number of such employees during the preceding fiscal year is 30 percent or more, and that is the permanent duty station for 100 or more employees.

(b) Section 11 also modifies the report-and-wait requirements of section 210(b)(2), requiring that the Secretary transmit a notification to the Committees on Veterans' Affairs of the Senate and House of Representatives at least 30 days prior to implementation of any proposed Central Office reorganization involving between 25 and 100 full-time employees, if such reorganization affects 10 percent or more of the employees, or by a percent which, when added to the percent reduction made in the number of such employees during the preceding fiscal year is 15 percent or more.

(c) Finally, Section 11 exempts from coverage of Section 210(b)(2) administrative reorganizations within the Department of Veterans Affairs necessary to carry out the provisions of this Act and that are initiated within six months after the effective date of this Act.

These modifications are intended to increase management flexibility at the headquarters level, while at the same time protect against field office or facility closures that might adversely affect the delivery of VA services at the local level.

Section 12 provides that in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Veterans' Administration, any reference to the

Administrator of Veterans' Affairs shall be deemed to be a reference to the Secretary of Veterans Affairs; any reference to the VA shall be deemed to be a reference to the Department of Veterans Affairs; any reference to the Deputy Administrator of Veterans' Affairs shall be deemed to be a reference to the Deputy Secretary of Veterans Affairs; any reference to the Department of Medicine and Surgery of the Veterans' Administration shall be deemed to be a reference to the Veterans Health Services and Research Administration of the Department of Veterans Affairs; any reference to the Department of Veterans' Benefits of the VA shall be deemed to be a reference to the Veterans Benefits Administration of the Department of Veterans Affairs; any reference to the Chief Affairs Director of the VA shall be deemed to be a reference to the Chief Benefits Director of the Department of Veterans Affairs' and any reference to the Department of Memorial Affairs of the VA shall be deemed to be a reference to the Veterans Benefits Administration of the Department.

Section 13 provides for the continuing effect of all legal documents of the VA and the continuation without interruption of any proceedings and applications pending before the VA and any suits involving the VA pending in a court of law. Section 13 also provides that any contracts, liabilities, records, property, and other assets and interests of the VA, after the effective date of this Act, be considered those of the Department of Veterans Affairs.

Section 14 provides for the conformance of other laws to this Act. Included are new compensation levels for the Secretary, Deputy Secretary, Chief Medical Director, Chief Benefits Director, Deputy Chief Benefits Director for Memorial Affairs, Inspector General, Assistant Secretaries, General Counsel, and Deputy Chief Benefits Director.

Section 15 requires that the Secretary of Veterans Affairs, after consultation with the appropriate committees of Congress and within six months after enactment of this Act, submit to the Congress proposed technical and conforming amendments to Title 38 of the United States Code, and to other provisions of law, to reflect changes made by this Act.

Section 16 provides that Departmental authority to make payments or to enter into other obligations under this Act are governed by appropriations acts.

Section 17 requires the Secretary of Veterans Affairs to submit an annual report for five years on the additional estimated cost resulting from implementation of this Act over the cost of continuing to operate the VA as an independent establishment within the Executive branch.

Section 18 amends Title II of the Treasury, Postal Service and General Government Appropriations Act, 1988, to remove its prohibition on the Office of Management and Budget's review of transcripts of testimony before certain committees of Congress and printed hearings by such committees.

Section 19 provides for the establishment of a National Commission on Executive Organization and Management to examine and make recommendations pertaining to the structure and operation of the Federal government, including individual Departments, the Executive Office of the President, and the President's Cabinet.

(a) The Commission is to be composed of 16 members appointed within 120 days of the date that this Act takes effect. Six members shall be appointed by the President (with no more than four from the President's own political party); three members shall be Senators appointed by the President pro tempore of the Senate, two upon the recommendation of the Majority Leader and one upon the recommendation of the Minority Leader of the Senate; two members shall be citizens appointed by the President pro tempore of the Senate, one each upon the recommendation of the Majority and Minority Leader of the Senate; three members shall be Members of the House of Representatives appointed by the Speaker of the House, two upon the recommendation of the Majority Leader and one upon the recommendation of the Minority Leader of the House; and two members shall be citizens appointed by the Speaker of the House of Representatives, one each upon the recommendation of the Majority and Minority leaders of the House.

(b) Members of the Commission may receive no pay, allowances, or benefits for their service to the Commission. However, private citizen members may be reimbursed for travel expenses.

(c) The Commission's functions are to determine (1) the criteria by which the President and Congress may evaluate proposals for changes in the structure of the Federal government, including criteria for the evaluation and oversight of Government-sponsored enterprises and Government corporations; (2) the effectiveness of the current number and overall organization of executive departments, including recommendations regarding the restructuring or abolition of existing Departments and creation of new Departments; (3) the most effective and practicable structure of the Executive Office of the President (EOP), and criteria by which the EOP should evaluate and oversee the performance and management of the Executive branch; (4) the appropriate management systems and procedures for ensuring efficient, effective, and accountable delivery of public goods and services; and (5) the most effective and practicable structure and operation of the President's Cabinet.

(d) The Commission shall submit a report on its findings and recommendations to the President and the Congress not later than 18 months from the date of appointment of all Commission members. The President may provide for a maximum six-month extension of the report deadline by Executive Order.

(e) The Commission has the authority to hold hearings; adopt rules and regulations governing its operation, organization, and personnel; request and receive, to the extent possible, information, facilities, services, and personnel from other organizations of the Federal government for purposes of carrying out its responsibilities under this Act; utilize Federal mailing privileges; and enter into contracts for the purpose of conducting necessary research. The Chairman of the Commission is also empowered to appoint, terminate, and fix the pay of the Commission's staff, including an Executive Director.

(f) The Commission is authorized to expend up to $1,500,000 for the purposes of carrying out its responsibilities under this Act.

(g) The Commission is considered to be an advisory committee within the meaning of the Federal Advisory Committee Act.

(h) The Commission shall cease operations 30 days after the date upon which its report is submitted to the President and the Congress.

(i) Within 120 days from the date this Act takes effect, the heads of the General Accounting Office, Congressional Research Service, Congressional Budget Office, and Office of Technology Assessment are required to prepare source material covering certain categories of information for use by the Commission.

(j) A reduced staff of the Commission is to be maintained, under the authority of the Office of Management and Budget (OMB), for 270 days after the date upon which the Commission ceases to exist, in order to consult with appropriate officials and ensure action on the Commission's recommendations. OMB is required to submit three annual interim and one final report on implementation of the Commission's recommendations. Finally, the General Accounting Office is required to monitor implementation of the commission's recommendations and to report periodically to the President and the Congress on the progress of such implementation.

Section 20 provides that the effective date of this Act shall be any date within six months after January 21, 1989, as directed by the President by Executive Order. If the President fails to issue an Executive Order for such purpose, the Act and any amendments made by the Act shall take effect on July 21, 1989.

VI. Regulatory Impact of Legislation

Paragraph 11(b)(1) of Rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out the bill."

The enactment of this bill would not have a significant regulatory impact on the public. However, the bill does impose some additional recordkeeping and reporting requirements on the Department of Veterans Affairs and the newly established National Commission on Executive Organization and Management, as well as the Office of Management and Budget and the General Accounting Office. With respect to the Department, the bill requires the Secretary of Veterans Affairs to submit, for five years, an annual report on the additional estimated cost of continuing to operate the Veterans Administration as an independent establishment within the Executive Branch.

With respect to the Commission, the bill requires that the Commission submit a report on its findings and recommendations to the President and the Congress. The Office of Management and Budget is then required to submit three annual interim and one final report on implementation of the Commission's recommendations. Finally, the General Accounting Office is required to monitor and periodically report on such implementation to the President and to the Congress.

Such reports will require additional recordkeeping by the Department of Veterans Affairs, the Office of Management and Budget, the General Accounting Office, and the newly established National Commission on Executive Organization and Management. However, none of the recordkeeping or reporting requirements is

expected to impose an undue burden on any of the parties involved. The Committee has allowed ample time for the submission of necessary reports.

Moreover, the Committee believes that the benefits to be derived from such requirements more than outweigh the costs. The cost estimate required of the Department of Veterans Affairs is compatible with the Government's responsibility—especially in a time of scarce resources and tight budgets—to fully account for expenditures of public monies. The reports required of OMB and the GAO on the implementation of Commission recommendations are intended to ensure that appropriate action is taken on those recommendations, and, thereby, to assure the public that the most efficient and effective modes of structuring and managing the Federal government are being sought and effected.

VII. Cost Estimate of Legislation

Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office (CBO) has reviewed the cost of implications of S. 533. The following is CBO's estimate of the potential costs of this legislation:

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 22, 1988.

Hon. John Glenn,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate of S. 533, the Department of Veterans Affairs Act, as ordered reported by the Senate Committee on Governmental Affairs, April 14, 1988.

If you wish further details on this estimate, please call me or have your staff contact Kathleen Shepherd (226–2820).

Sincerely,

James L. Blum,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 533.
2. Bill title: The Department of Veterans Affairs Act of 1988.
3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs, April 14, 1988.
4. Bill purpose: To establish the Veterans Administration (VA) as an executive department, to expand the VA Office of the Inspector General, to establish a National Commission on Executive Organization and Management, and for other purposes.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1989	1990	1991	1992	1993
Estimated authorization level	0	4	8	10	11
Estimated outlays	0	4	8	10	11

The cost of this bill would fall in budget function 700.

Basis of Estimate

Elevate the VA to Cabinet Level.—The cost of making the VA a cabinet-level agency should not be significant in any given year. Some senior executives would receive salary increases, but the cost of these raises should be less than $50,000 a year. Stationery bearing the new letterhead would only be ordered as existing supplies are exhausted. The largest component of cost would be changing the signs on VA facilities. The VA maintains that this job would be carried out over a period of three to five years in order to minimize costs in each year.

Expansion of the Office of the Inspector General.—As part of the reorganization of the VA along departmental lines, S. 533 mandates an expansion of the Office of the Inspector General (OIG). One full-time position would be required for every 367 full-time positions in the agency.

[By fiscal years, in millions of dollars]

	1989	1990	1991	1992	1993
Estimated authorization level	0	3	7	10	11
Estimated outlays	0	3	7	10	11

In fiscal year 1987, total VA employment was just over 200,000 full-time positions; the actual staff level of the OIG in that year was 382 full-time positions. The formula in S. 533 would require the OIG to operate at least 547 positions, an increase in staff of 165 full-time positions. The new positions were assumed to be filled, as specified in the bill, over the three-year period from 1990 through 1992. The average cost of each new employee was assumed to be equal to the 1987 average cost for current employees in the OIG, increased by the CBO inflator for federal pay.

National Commission on Executive Organization and Management.—The Commission established by this bill would examine the organizational structure of the executive branch and the Cabinet and would analyze management systems that could enhance the ability of the Executive Office of the President to evaluate and manage the operations of the executive branch.

[By fiscal years, in millions of dollars]

	1989	1990	1991	1992	1993
Estimated authorization level	0	1	1	(1)	0
Estimated outlays	0	1	1	(1)	0

[1] Less than $500,000.

The expenses of the new commission would be limited to a total of $1.5 million by the bill. The above estimate assumes that the Commission would operate from October 1989 to October 1991. The operating costs of the Commission are estimated at $0.6 million in fiscal years 1990 and 1991. After the Commission terminates, some of the staff would be assigned to the Office of Management and Budget (OMB) for nine months to assist the Director in implementing the recommendations of the Commission. The staff salaries during this period would also have to come within the $1.5 million expenditure limit and are estimated at $0.3 million in 1992.

6. Estimated cost to State and local governments: The Congressional Budget Office has determined that the budgets of State and local governments would not be significantly affected by enactment of this bill.

7. Previous CBO estimate: On August 20, 1987, CBO prepared an estimate of the cost of S. 533, as introduced, for Senator Strom Thurmond. Estimates were also prepared for H.R. 1707 and H.R. 3471, on August 20, 1987 and October 26, 1987, respectively. All three of these bills would have established the VA as an executive department; but they did not contain additional provisions, such as those above relating to the expansion of the OIG and the establishment of the National Commission on Executive Organization and Management. Therefore, CBO estimated that the earlier version of S. 533 and the two House bills would not have a significant budgetary impact.

8. Estimate prepared by: K.W. Shepherd.

9. Estimate Approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

VIII. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman.)

Section 210(b)(2) of Title 38

(2)(A) The Administrator may not in any fiscal year implement an administrative reorganization described in subparagraph (B) of this paragraph unless the Administrator first submits to the appropriate committees of the Congress a report containing a detailed plan and justification for the administrative reorganization. Any such report shall be submitted not later than the day on which the President, pursuant to section 1105 of title 31, submits to the Congress the Budget for the fiscal year in which the administrative reorganization is to be implemented. No action to carry out such reorganization may be taken after the submission of such report until the first day of such fiscal year.

[(B) Subparagraph (A) of this paragraph applies only to an administrative reorganization within the Veterans' Administration that involves a reduction during any fiscal year in the number of

full-time equivalent employees with permanent duty stations at a covered office or facility—

[(i) by 10 percent or more, or

[(ii) by a percent which, when added to the percent reduction under this subsection in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year is 15 percent or more.]

(B) An administrative reorganization described in this subparagraph is an administration reorganization of—

(i) a covered field office or facility which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

(I) by 10 percent or more, or

(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 15 percent or more; or

(ii) a covered Central Office unit which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such unit—

(I) by 25 percent or more, or

(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 30 percent or more; and

(2) in subparagraph (C)—

(A) by striking out "(C) For" and inserting in lieu thereof "(D) For";

(B) by redesignating division (iii) as division (iv); and

(C) by striking out division (ii) and inserting in lieu thereof the following new divisions:

(ii) The term "covered Central Office" means an office in the Veterans' Administration's Central Office that is the permanent duty station for 100 or more employees.

(iii) The term "covered field office or facility" means a Veterans' Administration office or facility outside the Veterans' Administration Central Office that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic; and

(3) by inserting after subparagraph (B) the following new subparagraph (C):

(C) Not less than 30 days before the date on which the implementation of any reorganization described in this subparagraph is to begin, the Administration shall transmit to the Committee on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization. This subparagraph applies to the reorganization of any such unit of the Central Office of the Veterans' Administration that is the duty station for more than 25 but less than 100 employees if the reorganization involves a reduction in any fiscal year in the number of full-time equivalent employees with permanent duty station in such unit—

(i) by 10 percent or more, or

(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty station in such unit during the preceding fiscal year, is 15 percent or more.

SECTION 19 OF TITLE 3, UNITED STATES CODE

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act

(a) * * *

* * * * * * *

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health and Human Services, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy, Secretary of Education, *Secretary of Veterans Affairs.*

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TITLE 5, UNITED STATE CODE

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PART I—THE AGENCIES GENERALLY

* * * * * * *

CHAPTER 1—ORGANIZATIONS

* * * * * * *

§ 101. Executive departments.

The Executive departments are:
The Department of State.
The Department of the Treasury.
The Department of Defense.
The Department of the Interior.
The Department of Agriculture.
The Department of Commerce.
The Department of Labor.
The Department of Health and Human Services.
The Department of Housing and Urban Development.
The Department of Transportation.
The Department of Energy.
The Department of Education.

The Department of Veterans Affairs.

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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Subchapter II—Executive Schedule Pay Rates

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§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Secretary of State.
Secretary of the Treasury.
Secretary of Defense.
Attorney General.
Secretary of the Interior.
Secretary of Agriculture.
Secretary of Commerce.
Secretary of Labor.
Secretary of Health and Human Services.
Secretary of Housing and Urban Develcpment.
Secretary of Transportation.
United States Trade Representative.
Secretary of Energy.
Secretary of Education.
Secretary of Veterans Affairs.

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.
Deputy Secretary of State.
Administrator, Agency for International Development.
Administrator of the National Aeronautics and Space Administration.
[Administrator of Veterans Affairs] *Deputy Secretary of Veterans Affairs.*
Deputy Secretary of the Treasury.
Deputy Secretary of Transportation.

Chairman, Nuclear Regulatory Commission.
Chairman, Council of Economic Advisors.
Chairman, Board of Governors of the Federal Reserve System.
Director of the Office of Management and Budget.
Director of the Office of Science and Technology.
Director of the United States Arms Control and Disarmament Agency.
Director of the United States Information Agency.
Director of Central Intelligence.
Secretary of the Air Force.
Secretary of the Army.
Secretary of the Navy.
Administrator, Federal Aviation Administration.
Director of the National Science Foundation.
Deputy Attorney General.
Deputy Secretary of Energy.
Deputy Secretary of Agriculture.
Director of the Office of Personnel Management.
Ambassadors at Large.
Administrator, Federal Highway Administration.
Administrator of the Environmental Protection Agency.
Under Secretary of Defense for Acquisition.
Deputy Secretary of Labor.

§ 5314. Positions at level IIII

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 121 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.
Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration, Under Secretary of Commerce for Travel and Tourism.
Under Secretary of Education.
Under Secretary of Health and Human Services.
Under Secretary of the Interior.
Under Secretary of State for Political Affairs and Under Secretary of State for Economic and Agricultural Affairs and an Under Secretary of State for Coordinating Security Assistance Programs and Under Secretary of State for Management.
Counselor of the Department of State.
Under Secretary of the Treasury (or Counselor).
Under Secretary of the Treasury for Monetary Affairs.
Administrator of the General Services.
Administrator of the Small Business Administration.
[Deputy Administrator of Veterans' Affairs]
Deputy Administrator, Agency for International Development.
Chairman of the Merit Systems Protection Board.
Chairman, Federal Communications Commission.
Chairman, Board of Directors, Federal Deposit Insurance Corporation.

Chairman of the Federal Home Loan Bank Board.
Chairman, Federal Energy Regulatory Commission.
Chairman, Federal Trade Commission.
Chairman, Interstate Commerce Commission.
Chairman, National Labor Relations Board.
Chairman, Securities and Exchange Commission.
Chairman, Board of Directors of the Tennessee Valley Authority.
Chairman, National Mediation Board.
Chairman, Railroad Retirement Board.
Chairman, Federal Maritime Commission.
Comptroller of the Currency.
Commissioner of Internal Revenue.
Under Secretary of Defense for Policy.
Deputy Administrator of the National Aeronautics and Space Administration.
Deputy Director of the Office of Management and Budget.
Deputy Director of Central Intelligence.
Director of the Office of Emergency Planning.
Director of the Peace Corps.
Deputy Director, National Science Foundation.
President of the Export-Import Bank of Washington.
Members, Nuclear Regulatory Commission.
Members, Board of Governors of the Federal Reserve System.
Director of the Federal Bureau of Investigation, Department of Justice.
Administrator of the National Highway Traffic Safety Administration.
Administrator, Federal Railroad Administration.
Chairman, National Safety Transportation Board.
Chairman of the National Endowment for the Arts, the incumbent of which also serves as Chairman of the National Council on the Arts.
Chairman of the National Endowment for the Humanities.
Director of the Federal Mediation and Conciliation Service.
Under Secretary of Housing and Urban Development.
Urban Mass Transportation Administrator.
President, Overseas Private Investment Corporation.
Chairman, Postal Rate Commission.
Chairman, Occupational Safety and Health Review Commission.
Governor of the Farm Credit Administration.
Chairman, Equal Employment Opportunity Commission.
Chairman, Consumer Product Safety Commission.
Under Secretary, Department of Energy.
Chairman, Commodity Futures Trading Commission.
Deputy United States Trade Representatives (3).
Chairman, United States International Trade Commission.
Director of the Office of Drug Abuse Policy.
Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.
Associate Attorney General.

Chairman, Federal Mine Safety and Health Review Commission.
Chairman, National Credit Union Administration Board.
Deputy Director of the Office of Personnel Management.
Under Secretary of Agriculture for International Affairs and Commodity Programs.
Director, Institute for Scientific and Technological Cooperation.
Under Secretary of Agriculture for Small Community and Rural Development.
Administrator, Maritime Administration.
Executive Director, Property Review Board.
Deputy Administrator of the Environmental Protection Agency.
Archivist of the United States.
Deputy Director of the United States Arms Control and Disarmament Agency.
Executive Director, Federal Retirement Thrift Investment Board.
Deputy Under Secretary of Defense for Acquisition.
Chief Medical Director, Department of Veterans Affairs.
Chief Benefits Director, Department of Veterans Affairs.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.
Associate Administrator of the National Aeronautics and Space Administration.
Assistant Administrators, Agency for International Development (6).
Regional Assistant Administrators, Agency for International Development (4).
Under Secretary of the Air Force.
Under Secretary of the Army.
Under Secretary of the Navy.
Assistant Secretaries of Agriculture (7).
Assistant Secretaries of Commerce (11).
Assistant Secretaries of Defense (11).
Assistant Secretaries of the Air Force (3).
Assistant Secretaries of the Army (5).
Assistant Secretaries of the Navy (4).
Assistant Secretaries of Health and Human Services (4).
Assistant Secretaries of the Interior (6).
Assistant Attorneys General (10).
Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for Veterans' Employment and Training.
Assistant Secretaries of State (15).
Assistant Secretaries of the Treasury (7).
Members, United States International Trade Commission (5).
Assistant Secretaries of Education (6).

General Counsel, Department of Education.
Inspector General, Department of Education.
Director of Civil Defense, Department of the Army.
Deputy Director of the Office of Emergency Planning.
Deputy Director of the Office of Science and Technology.
Deputy Director of the Peace Corps.
Deputy Director of the United States Information Agency.
Assistant Directors of the Office of Management and Budget (3).
General Counsel of the Department of Agriculture.
General Counsel of the Department of Commerce.
General Counsel of the Department of Defense.
General Counsel of the Department of Health and Human Services.
Solicitor of the Department of the Interior.
Solicitor of the Department of Labor.
General Counsel of the National Labor Relations Board.
Legal Advisor of the Department of State.
General Counsel of the Department of the Treasury.
First Vice President of the Export-Import Bank of Washington.
Members, Council of Economic Advisers.
Members, Board of Directors of the Export-Import Bank of Washington.
Members, Federal Communications Commission.
Members, Board of Directors of the Tennessee Valley Authority.
Members, Merit Systems Protection Board.
Members, Federal Maritime Commission.
Members, National Mediation Board.
Members, Railroad Retirement Board.
Director of Selective Service.
Associate Director of the Federal Bureau of Investigation, Department of Justice.
Members, Equal Employment Opportunity Commission (4).
Chief of Protocol, Department of State.
Director, Community Relations Service.
Members, National Transportation Safety Board.
General Counsel, Department of Transportation.
Deputy Administrator, Federal Aviation Administration.
Assistant Secretaries of Transportation (4).
Deputy Federal Highway Administrator.
Administrator of the St. Lawrence Seaway Development Corporation.
Assistant Secretary for Science, Smithsonian Institution.
Assistant Secretary for History and Art, Smithsonian Institution.
Deputy Administrator of the Small Business Administration.
Assistant Secretaries of Housing and Urban Development (8).
General Counsel of the Department of Housing and Urban Development.
Commissioner of Interama.
Federal Insurance Administrator, Federal Emergency Management Agency.

Executive Vice President, Overseas Private Investment Corporation.

Members, National Credit Union Administration Board (2).

Members, Postal Rate Commission (4).

Members, Occupational Safety and Health Review Commission.

Deputy Director of the Office of Drug Abuse Policy.

Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2).

Members, Consumer Product Safety Commission (4).

Commissioner of Social Security, Department of Health and Human Services.

Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.

Administrator for Federal Procurement Policy.

Members, Commodity Futures Trading Commission.

Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.

Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.

Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.

Executive Director for Operations, Nuclear Regulatory Commission.

President, Government National Mortgage Association, Department of Housing and Urban Development.

Associate Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration.

Commissioner of Immigration and Naturalization, Department of Justice.

Director, Bureau of Prisons, Department of Justice.

Assistant Secretaries of Energy (8).

General Counsel of the Department of Energy.

Administrator, Economic Regulatory Information Administration, Department of Energy.

Administrator Energy Information Administration, Department of Energy.

Inspector General, Department of Energy.

Director, Office of Energy Research, Department of Energy.

Assistant Secretary of Labor for Mine Safety and Health.

Members, Federal Mine Safety and Health Review Commission.

President, National Consumer Cooperative Bank.

Assistant Secretary for International Narcotics Matters, Department of State.

Inspector General, Department of Health and Human Services.

Inspector General, Department of Agriculture.

Special Counsel of the Merit System Protection Board.

Inspector General, Department of Housing and Urban Development.

Chairman, Federal Labor Relations Authority.

Inspector General, Department of Labor.
Inspector General, Department of Transportation.
[Inspector General, Veterans' Administration]
Inspector General, Department of Veterans Affairs.
Deputy Director, Institute for Scientific and Technological Cooperation.
Director of the National Institute of Justice.
Director of the Bureau of Justice Statistics.
Chief Counsel for Advocacy, Small Business Administration.
Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.
Inspector General, Department of Defense.
Assistant Assistant Administrator for Toxic Substances, Environmental Protection Agency.
Assistant Administrator, Office of Solid Waste, Environmental Protection Agency.
Assistant Administrators, Environmental Protection Agency (8).
Director of Operational Test and Evaluation, Department of Defense.
Special Representatives for Arms Control and Disarmament Negotiations, United States Arms Control and Disarmament Agency (2).
Administrator of the Health Care Financing Administration.
Director, National Bureau of Standards, Department of Commerce.
Assistant Directors, United States Arms Control and Disarmament Agency (4).
Inspector General, United States Information Agency.
Inspector General, Department of State.
Director of Defense Research and Engineering.
Deputy Cheif Benefits Director for Memorial Affairs, Department of Veterans Affairs.
Assistant Secretaries, Department of Veterans Affairs (4).
General Counsel, Department of Veterans Affairs.

§ 5316. Positions at level V.

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Agricultural Marketing Service, Department of Agriculture.
Administrator, Agricultural Research Service, Department of Agriculture.
Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.
Administrator, Farmers Home Administration.
Administrator, Foreign Agricultural Service, Department of Agriculture.
Administrator, Rural Electrification Administration, Department of Agriculture.
Administrator, Soil Conservation Service, Department of Agriculture.

Administrator, Bonneville Power Administration, Department of the Interior.

Administrator of the National Capital Transportation Agency.

Associate Administrators of the Small Business Administration (4).

Associate Administrators, National Aeronautics and Space Administration (7).

Associate Deputy Administrator, National Aeronautics and Space Administration.

Deputy Associate Administrator, National Aeronautics and Space Administration.

[Associate Deputy Administrator of Veterans' Affairs.]

Archivist of the United States.

Assistant Secretary of Health and Human Services for Administration.

Assistant Attorney General for Administration.

Assistant and Science Adviser to the Secretary of Interior.

Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice.

Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense.

Chairman of the Renegotiation Board.

Chairman of the Subversive Activities Control Board.

Chief Counsel for the Internal Revenue Service, Department of the Treasury.

Chief Forester of the Forest Service, Department of Agriculture.

Additional officers, Department of Education, (4).

Commissioner of Customs, Department of the Treasury.

Commissioner, Federal Supply Service, General Services Administration.

Director, United States Fish and Wildlife Service, Department of the Interior.

Commissioner, Federal Supply Service, General Services Administration.

Director, United States Fish and Wildlife Service, Department of the Interior.

Commissioner of Food and Drugs, Department of Health and Human Services.

Commissioner of Indian Affairs, Department of the Interior.

Commissioners, Indian Claims Commission (5).

Commissioner of Patents, Department of Commerce.

Commissioner, Public Buildings Service, General Services Administration.

Commissioner of Reclamation, Department of the Interior.

Commissioner of Vocational Rehabilitation, Department of Health and Human Services.

Commissioner of Welfare, Department of Health and Human Services.

Director, Advanced Research Projects Agency, Department of Defense.

Director, Bureau of the Census, Department of Commerce.

Director, Bureau of Mines, Department of the Interior.

Director, Geological Survey, Department of Interior.
Director of Science and Education, Department of Agriculture.
Deputy Commissioner of Internal Revenue, Department of the Treasury.
Deputy Director, Policy and Plans, United States Information Agency.
Deputy General Counsel, Department of Defense.
Associate Director for Program Director and Operations, Peace Corps.
Assistants to the Director of the Federal Bureau of Investigation, Department of Justice (2).
Assistant Directors, Office of Emergency Planning (3).
Fiscal Assistant Secretary of the Treasury.
General Counsel of the Agency for International Development.
General Counsel of the Department of the Air Force.
General Counsel of the Department of the Army.
General Counsel of the Nuclear Regulatory Commission.
General Counsel of the Department of the Navy.
General Counsel of the United States Arms Control and Disarmament Agency.
General Counsel of the National Aeronautics and Space Administration.
Administrator of the Panama Canal Commission.
Manpower Administrator, Department of Labor.
Members, Renegotiation Board.
Members, Subversive Activities Control Board.
Deputy Undersecretaries of Defense for Research and Engineering, Department of Defense (4).
Assistant Administrator of General Services.
Director, United States Travel Service, Department of Commerce.
Administrator, Wage and Hour and Public Contracts Division, Department of Labor.
Assistant Director (Program Planning, Analysis and Research), Office of Economic Opportunity.
Associate Director (Policy and Plans), United States Information Agency.
[Chief Benefits Director, Veterans' Administration.]
Commissioner of Labor Statistics, Department of Labor.
Deputy Director, National Security Agency.
Director, Bureau of Land Management, Department of the Interior.
Director, National Park Service, Department of the Interior.
[General Counsel of the Veterans' Administration.]
National Export Expansion Coordinator, Department of Commerce.
Special Assistant to the Secretary of Defense.
Staff Director, Commission on Civil Rights.
Assistant Secretary for Administration, Department of Transportation.
Director, United States National Museum, Smithsonian Institution.

Director, Smithsonian Astrophysical Observatory, Smithsonian Institution.

Administrator for Economic Development.

Administrator of the Environmental Science Services Administration.

Associate Directors of the Office of Personnel Management (5).

Assistant Federal Highway Administrator.

Deputy Administrator of the National Highway Traffic Safety Administration.

Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice.

Inspector General, Agency for International Development.

Vice Presidents, Overseas Private Investment Corporation (3).

Deputy Administrator, Urban Mass Transit Administration, Department of Transportation.

General Counsel of the Equal Employment Opportunity Commission.

[Director, National Cemetery System, Veterans' Administration]

Executive Director, Advisory Council on Historic Preservation.

Deputy Inspector General, Department of Energy.

Additional Officers, Department of Energy (14).

General Counsel, Commodity Futures Trading Commission.

Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.

Administrator, Federal Grain Inspection Service, Department of Agriculture.

Additional Officers, Nuclear Regulatory Commission (5).

Executive Director, Commodity Futures Trading Commission.

Assistant Administrator for Coastal Zone Management, National Oceanic Administration.

Associate Administrator, Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration.

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

Assistant Administrators (3), National Oceanic and Atmospheric Administration.

General Counsel, National Oceanic and Atmospheric Administration.

Deputy Inspector General, Department of Health and Human Services.

Inspector General, Department of Commerce.

Members, Federal Labor Relations Authority (2) and its General Counsel.

Inspector General, Department of the Interior.

Director of the Office of Government Ethics.

Inspector General, Community Services Administration.

Inspector General, Environmental Protection Agency.

Inspector General, General Services Administration.

Inspector General, National Aeronautics and Space Administration.

Inspector General, Small Business Administration.

Additional officers, Institute for Scientific and Technological Cooperation (2).

Additional officers, Office of Management and Budget (6).

Associate Deputy Secretary, Department of Transportation.

Chief Scientist, National Oceanic and Atmospheric Administration.

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INSPECTOR GENERAL ACT OF 1978

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PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Education, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, *the Department of Veterans Affairs,* the Agency for International Development, the Community Services Administration, the Small Business Administration, the United States Information Agency, **[**the Veterans' Administration**]** and the Department of State;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

thereby is hereby established in each of such establishments an office of Inspector General.

* * * * * * * *

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Education, Housing and Urban Development, the Interior, Labor, State, or **[**Transportation**]** *Transportation, or Veterans Affairs,* or the Administrator of the Agency for International Development, Community Services, Environmental Protection, General Services, National Aeronautics and Space, **[**Small Business, or Veterans' Affairs**]** *or Small Business,* or the Director of the United States Information Agency as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Defense, Education, Housing and Urban Development, the Interior, Labor, State, [or Transportation] *Transportation, or Veterans Affairs,* or the Agency for International Development, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the Small Business Administration, the United States Information Agency [or the Veterans' Administration], as the case may be;

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IX. ADDITIONAL VIEWS OF SENATOR JOHN HEINZ (PENNSYLVANIA) ON S. 533, TO ESTABLISH A DEPARTMENT OF VETERANS AFFAIRS

I voted for S. 533 and, although I believe certain improvements need to be made which I discuss below, I strongly support its enactment. Overall, the Committee substitute provides for a strengthened management structure at the Department of Veterans Affairs, and enhances the scope of the Chief Medical Director and the Chief Benefits Director. The Committee's amendments limit the number of political appointees, and specify their general duties. In this way, the Department will function in a smoother, more accountable fashion than the existing Veterans Administration.

Unfortunately, I must take exception with provisions of the legislation to eliminate the Department of Memorial Affairs, and place it in the Department of Veterans Benefits. The Department of Memorial Affairs is the oldest and smallest of the VA's existing Departments. The VA, in fact, began in 1962 with the establishment of the National Cemetery System. The Department has expanded over the 125 years to include the provision of memorial plots and markers, headstones, and monuments for deceased veterans. In addition, the Department administers a grant program for State cemetery management.

Management of the cemetery system, which involves the great majority of the Department's employees, is a unique function within the VA. The cemeteries are essentially shrines, with historic and personal significance to thousands of communities. The Committee substitute would have the Department of Veterans Benefits—whose programs are financial in nature—take responsibility for management of the cemetery system. The cemeteries have never considered merely another benefit, and should not be tied to the bureaucracy of veterans benefits.

The Veterans Administration has submitted comments on the Department of Memorial Affairs, and their views are compelling. The VA states that one of the reasons for an independent National Cemetery System is the danger that national cemeteries might not otherwise receive sufficient attention, either in current operations or future planning. In 1973, the Congress recognized this danger and directed the head of the National Cemeteries System to report directly to the VA Administrator.

The National Cemetery System is experiencing tremendous growth, as the population of veterans ages. Interments will have doubled between 1973 and 2010. More than half of the 66 national cemeteries will have to close by 2020 for lack of additional space. According to the VA, the National Cemetery System requires the full attention of top level management if it is effectively to plan for and meet these needs.

Eliminating the organization distinction between memorial affairs and veterans benefits will place these programs in competition for scarce financial resources, encouraging internal jockeying which serves no one.

When problems arise in the National Cemetery System, they can have significant ramifications. The ongoing controvery over the provision of flat and upright headstones is just one example. My fear is that the Committee substitute will require the families of deceased veterans to run the gamut of different managerial layers to obtain a burial plot or a headstone. That is no way to recognize the contributions that veterans have made to our Nation. Their families deserve prompt and sympathetic attention when arranging for an appropriate memorial.

Through its current independence, the Department of Memorial Affairs has direct access to the Administrator, and thus can resolve controversies as quickly as possible, without waiting for different Department heads to reach a consensus.

The Department of Veterans Benefits lacks the necessary expertise, according to the VA, in burial procedures, land development and use, construction of facilities, and landscape architecture. For this reason, the VA, the National Academy of Public Administration, the Veterans of Foreign Wars, and others, recommend retaining the Department of Memorial Affairs as a separate administration within the new Department of Veterans Affairs.

The Senate should note that the Governmental Affairs Committee's record is very clear on this subject. The Veterans Administration, the Veterans of Foreign Wars, and the experts at the National Academy of Public Administration all testified in favor of retaining an independent memorial affairs function. No witness testified to the contrary. There is no evidence in the hearing record that memorial affairs would be an appropriate function for the Department of Veterans benefits.

The President of the United States recognizes the importance of the National Cemetery System. Only recently he said that, "No greater honor can be bestowed on a citizen than to be committed to the hallowed grounds of a national cemetery." Also, the Administrator of the Veterans Administration stated, while noting the 125th anniversay of the National Cemetery System, "The VA National Cemetery System is a testament to the Nation's gratitude for the sacrifice of the many Americans who answered their country's call to arms. By providing their final resting places, we honor their memory and express our everlasting gratitude for their dedication and unselfishness."

The Senate should not denigrate the importance of these honored sites. The House-passed legislation very wisely understood the importance of memorial affairs, and provided for independent administration of national cemeteries. I urge my colleagues to acccept the judgment of the House of Representatives, the National Academy of Public Administration, and the Veterans Administration, and keep memorial affairs separate and independent.

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